LAWS, MEMORIALS, AND RESOLUTIONS

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

SIXTH SESSION

OF THE

LEGISLATIVE ASSEMBLY,

BEGUN AT VIRGINIA CITY, MONDAY, DECEMBER 6, 1869, AND CONCLUDED JANUARY 7, 1870.

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES,
AND THE ACTS ORGANIZING THE TERRITORY.

PUBLISHED BY AUTHORITY.

HERALD, HELENA, M. T.
ROBERT E. FISK, PUBLIC PRINTER.
1870.

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AUTHENTICATION.

MONTANA TERRITORY,
Secretary's Office, Virginia City.

I, W. S. SCRIBNER, Secretary of Montana Territory, do hereby certify that I have delivered to Robert E. Fisk, Public Printer, true and correct copies of all the Laws, Joint Resolutions, and Memorials, now on file in my office, and passed at the sixth session of the Legislative Assembly of the Territory of Montana, begun and held at Virginia City, the Capital of said Territory, on the sixth day of December, in the year of our Lord one thousand eight hundred and sixty-nine.

In Testimony Whereof, I have hereunto set my hand and affixed the great seal of the Territory of Montana. Done at Virginia City, this [L. S.] sixth day of March, in the year of our Lord one thousand eight hundred and seventy.

W. S. SCRIBNER,
Secretary of Montana Territory.

HERALD OFFICE, HELENA, M. T.,
May 28th, 1870.

I hereby certify, that the General and Private Laws, Memorials, and Joint Resolutions herein contained, are true and correct copies of those delivered to me by the Secretary, as stated in the preceding authentication.

ROBERT E. FISK,
Public Printer.

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On p. 72, in the eleventh line, read *Hell Gate* instead of "Hell Gage."

On p. 91, in the title of an act to amend an act entitled "An Act defining the council and representative districts of the territory of Montana," read *apportioning* instead of "appointing."

On p. 95, in the last line of Section 2, read *repealed* instead of "approved."

On p. 98, after the first word in Section 3, insert the word *it;* so that said first line will read — "That *it* is hereby made the duty of the county."

On p. 105, in the third line of Section 1, read *January* 12th, 1869, instead of "February" 12th, 1869.

On p. 109, in the third line of Section 8, between the words "be" and "visit," insert the word *to*, so as to read — "be to visit."

On p. 110, after the word "same," in the third line in Section 12, add the words, *and may*.

In both journals, on the page of "Federal Officers" — the first in the book — for the "Judiciary," 3d District, *G. G. Symes*, instead of "G. G. Lymes."

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DECLARATION OF INDEPENDENCE,

IN CONGRESS, JULY 4TH, 1776.

The Unanimous Declaration of the Thirteen United States of America.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident — that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpa-

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tions, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and, when so suspended, he has utterly neglected to attend to them.

He has has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature — a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

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He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation —

For quartering large bodies of armed troops among us;

For protecting them by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us, without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas, to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments;

For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarce-

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ly paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too, have been deaf to the voice of justice, and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all

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other acts and things which independent states may of right do And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members: —

JOHN HANCOCK.

New Hampshire.

JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON.

Massachusetts Bay.

SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAINE,
ELBRIDGE GERRY.

Rhode Island, etc.

STEPHEN HOPKINS,
WILLIAM ELLERY.

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

New York.

WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

New Jersey.

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HEART,
ABRAHAM CLARK.

Maryland.

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHAS. CARROLL, of Carrollton.

Pennsylvania.

ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Delaware.

CÆSAR RODNEY,
GEORGE READ,
THOMAS M'KEAN.

Virginia.

GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JR.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

North Carolina.

WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina.

EDWARD RUTLEDGE,
THOMAS HAYWARD, JR.,
THOMAS LYNCH, JR.,
ARTHUR MIDDLETON.

Georgia.

BUTTON GWINETT,
LYMAN HALL,
GEORGE WALTON.

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CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the

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congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, tney shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

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The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid

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out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him,

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shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of sience and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasion;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively

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the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money;

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emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows: —

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[* The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be

*Annulled. See 12th amendment.

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counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballott one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation: —

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"I do solemnly swear (*or* affirm), that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

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ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers, and consuls; — to all cases of admiralty and maratime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more states; — [*between a state and citizens of another state; —] between citizens of different states; — between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachments, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

*Annulled. See 11th Amendment.

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The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

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ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

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AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

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ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; — the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next follow-

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ing, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged,

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except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

SEC. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4 The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

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ORGANIC ACT

OF THE

TERRITORY OF MONTANA.

(PUBLIC, No. 76.)

AN ACT to provide a temporary government for the Territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitute west from Washington, with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of long-

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itude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby created into a temporary government by the name of the territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said territory, and reprieve for offenses against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all of-

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ficers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assemby, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly

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as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to

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become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be

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appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace, shall not have jurisdiction of any matter in controversy

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when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office

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four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successsor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be re-

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ceived and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually traveled routes: an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative

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assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter, by a majority of ths legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from

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the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the time, and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Montana territory as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement,

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shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

SEC. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

SEC. 18. *And be it further enacted*, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,
WASHINGTON, May 28, 1864.

A true copy: W. H. HUNTER,
Chief Clerk.

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(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the territory of Montana," approved May 26, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing and other industrial pursuits.

SEC. 2. *And be it further enacted*, That the probate courts of the territory of Montana, in their respective counties in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes; *And provided further*, That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

SEC. 3. *And be it further enacted*, That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

SEC. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

SEC. 5. *And be it further enacted*, That for the purpose of reviving the legislative functions of the territory of Montana,

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which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby authorized on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the Organic Act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof, begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall be the same as that prescribed by said Organic Act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly, so elected, shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as will enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

SEC. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory: *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the elec-

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tion of the legislative assembly herein provided for shall take place.

SEC. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

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LAWS OF MONTANA.

AN ACT to amend an act entitled "An Act relative to elections, approved January 17, 1865."

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That in addition to the duties already assigned them, it shall be the duty of the board of county commissioners of each county to cause to be provided for the several election precincts in each county, poll books, after the forms hereinafter prescribed.

SEC. 2. That it shall be the duty of the clerk of said board to deliver to the sheriff of the county two copies of said blanks, to be furnished to the judges of each precinct at the same time the notices are served on said judges, as provided in section five (5) of the act, which this act is amendatory.

SEC. 3. The judge having the key, shall keep it in his own possession and deliver it again to the board at the next opening of the polls, and the person having the care of the box, shall carefully keep it without opening it, or suffer it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll books taken out, and the box again locked. That the judges having the custody of the key, box, and poll books, who shall refuse or neglect to comply with the requirements of this section, shall be guility of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five hundred dollars, or more than ten thousand dollars, together with imprisonment not less than three months or more than one year, or by such fine and imprisonment as a court of competent jurisdiction may see fit to impose.

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SEC. 4. Such poll books and oaths shall be in the following form: —

TERRITORY OF MONTANA, } ss.
County of ——. }

We, —— and ——, do solemnly swear that we will perform the duty of judges of the election according to law, and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, so help me God.

—— ——
—— —— } *Judges.*

Subscribed and sworn to before me ——, this —— day of ——, A. D. 187—.

TERRITORY OF MONTANA, } ss.
County of ——. }

We, —— and ——, do solemnly swear that we will faithfully perform the duties of clerks of the election, according to law and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, so help us God.

—— ——
—— —— } *Clerks.*

Subscribed and sworn to before me, this —— day of ——, 187—.

POLL BOOKS OF PRECINCT NO.——.

NO.	NAMES.	NO.	NAMES.

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At an election held at ———, in precinct No. ——, in the county of ———, in the territory of Montana, the following named persons received the number of votes annexed to their respective names, for the following offices; to-wit:—

Certified to by us,

——— ——— } *Judges.*
——— ——— }
——— ——— }

——— ——— } *Clerks.*
——— ——— }
——— ——— }

SECTION 5. It is hereby made the duty of the sheriff, at the time he delivers the poll books, as provided in section two (2) of this act, to administer the oath, as prescribed by section three (3) of this act, to at least one of the judges of the election, and such judge may administer the oath to the other judges and clerks of such elections. In case such judges fail to serve at such election, either of the other judges may administer such oath.

SEC. 6. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 7. This to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT concerning Licenses.

Be it enacted by the legislative assembly of the territory of Montana:—

SECTION 1. There shall be levied and collected by the tax collector, a license tax, as follows: *First*, from each billiard table kept for public use, ten dollars per quarter; *second*, from the

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manager or lessee of every theater, five dollars per day, or thirty dollars per month; and for each exhibition of opera or concert singers, minstrels, sleight-of-hand performers, legerdemain, and all other shows or exhibitions, the same as required for theatrical performances; *third*, all dance houses, or hurdy-gurdy houses, shall pay a license of ten dollars per day, or one hundred dollars per month; *fourth*, for each and every insurance company, agent, or agency transacting business in this territory, the sum of one hundred dollars per year, to be paid by the principal agent of the territory; *fifth*, each pawn-broker, twenty-five dollars per quarter; *sixth*, for each keeper of an intelligence office, ten dollars per quarter; *seventh*, from each assayer, fifteen dollars per quarter: *Provided*, They shall work for a compensation. Each professional man, before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum.

SEC. 2. All keepers of livery and feed stables shall pay a license of fifteen dollars per quarter; all keepers of hay yards, corrals for feeding stock, or selling hay, shall pay a license of eight dollars per quarter; and all herders, who keep or herd stock for hire, shall pay a license of ten dollars per quarter; ranchmen, whose receipts for herding stock exceed twenty dollars per month, shall pay the same license as herders; all keepers of liveries, who keep buggies, carriages, sleighs, and other vehicles, shall pay a license of two dollars and fifty cents for each and every vehicle per quarter, in addition to the fifteen dollars above provided.

SEC. 3. Every person keeping a bakery or confectionery, shall pay a license as follows: Those doing business amounting to two thousand dollars per month in the aggregate, shall pay a license of fifteen dollars per quarter; those doing business amounting to one thousand dollars, and not exceeding two thousand dollars per month, shall pay ten dollars per quarter; and all doing such business in an amount less than one thousand dollars per month, shall pay a license of six dollars per quarter; and all barbers shall pay a license of five dollars per quarter for each chair used.

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SEC. 4. Any person, or persons, private association, incorporation, or companies, who shall sell foreign or inland bills of exchange, loan money at interest, buy notes, bonds, or other evidences of indebtedness, or shall buy gold dust, gold or silver bullion, or gold or silver coin, or keep savings banks, or engage as a common carrier in transmitting or carrying gold dust, gold or silver coin, or bullion, from one place to another, for hire or profit, or receive general or special deposits of gold dust, gold or silver coin, or bullion, or bank notes, shall procure a license before performing any act above enumerated, and shall pay therefor as follows: Those doing business to the amount of fifty thousand dollars or over per quarter, shall pay one hundred dollars per quarter; those doing business to the amount of forty thousand and under fifty thousand dollars per quarter, shall pay seventy-five dollars per quarter; those doing business to the amount of thirty thousand dollars and under forty thousand dollars per quarter, shall pay fifty dollars per quarter; those doing business to the amount of twenty thousand dollars and under thirty thousand dollars per quarter, shall pay thirty-five dollars per quarter; those doing business to the amount of ten thousand dollars and under twenty thousand dollars per quarter, shall pay twenty-five dollars per quarter; and all doing business, or engaged in such transactions in any amount under ten thousand dollars per quarter, shall pay fifteen dollars per quarter: *Provided*, That any person, or persons, selling goods or property other than money for gold dust, gold or silver coin, or bullion, shall not be required to procure a license under this section.

SEC. 5. Every person who has a fixed place of business, who may deal in goods, wares, or merchandise, wines or liquors, drugs or medicines, jewelry or wares of precious metals, or who shall expose the same for sale, shall pay a license as follows: Those whose sales are ten thousand dollars or more per month, shall constitute the first class, and shall pay a license of fifty dollars per quarter; those whose sales are five thousand dollars and under ten thousand dollars per month, shall constitute the second class, and shall pay a license of thirty dollars per quarter; those whose sales are two thousand and under five thousand dollars per month, shall constitute the third class, and shall pay a

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license of twenty dollars per quarter; and those whose sales are over one thousand and under two thousand dollars per month shall constitute the fourth class, and shall pay a license of fifteen dollars per quarter; and those whose sales are one thousand dollars or under per month shall constitute the fifth class, and shall a license of ten dollars per quarter: *Provided*, That the sales of liquors or wines licensed under this section shall not be in less quantities than one gallon.

SEC. 6. All auctioneers shall procure a license, and shall pay therefor as follows: Those who shall sell or offer for sale cattle, horses, mules, or other live stock, upon the streets of any town or city containing two thousand or more inhabitants, shall pay twenty-five dollars per month; and all auctioneers who sell at auction any such stock outside of any town or city, or in any town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter; and auctioneers who shall sell property of any kind at public sale, in any place other than upon streets, as above specified, shall procure a license, and shall pay therefor as follows: All such auctioneers who shall so do business in any town or city containing two thousand or more inhabitants, shall pay ten dollars per month; and all such auctioneers who shall so sell outside of any town or city, or in any town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter.

SEC. 7. All keepers of restaurants, boarding-houses, lodging-horses, and hotels shall pay a license as follows: Those doing business in the aggregate of less than one thousand dollars per quarter, shall pay five dollars per quarter, and all whose business is over one thousand dollars per quarter, shall pay five dollars for each additional one thousand dollars or fractional part thereof per quarter, and all such keepers of restaurants, boarding-houses, lodging houses, and hotels shall make at the end of each quarter a sworn statement of the total amount of their business for the quarter last preceding.

SEC. 8. All persons who dispose of any spirituous or malt liquors in quantities of less than one gallon shall, before the transacting of such business, obtain a license, for which he or they shall pay as follows: In any city, town, or village that con-

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tains a population of three hundred persons or more, the license shall be thirty dollars per quarter; in any city, town, or village where the population is less than three hundred, and more than fifty, the license shall be fifteen dollars per quarter, and all persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, outside of any town, city, or village, and no nearer than three miles to any town, city, or village, shall pay a license of eight dollars per quarter.

SEC. 9. That every traveling merchant, hawker, or peddler who shall carry a pack or trunk, and shall sell goods, wares, or merchandise, shall pay a license of eight dollars per quarter; and any traveling merchant, hawker, or peddler, who shall travel with a wagon or other vehicle, and shall sell goods, wares, or merchandise, or produce not raised in this territory, shall pay five dollars per month for each wagon so used; that for selling goods, wares, or merchandise, carried on pack animals, fifty cents for each pack or load so offered for sale.

SEC. 10. Every brewer or manufacturer of malt or spirituous liquors, or manufacturers of pop, beer, or drinks of any kind put up in bottles, shall pay a license as follows: Those whose business amounts to one thousand dollars or over per month shall constitute the first class, and shall pay a license of twenty dollars per month; and those whose business is under one thousand dollars per month shall constitute the second class, and pay a license of five dollars per month.

SEC. 11. Any person or persons who shall keep any banking game or other game of chance, or gaming table, wherein any money or representatives of money are used, bet, or ventured at any game of chance or hazard and not prohibited by the laws of this territory, shall pay a license of fifty dollars per month for each house so kept.

SEC. 12. Every butcher shall pay a license of seven dollars per month: *Provided*, That any butcher carrying on business more than two miles from any city, town, or village, or in any city, town, or village containing less than one hundred inhabitants, and whose monthly receipts are less than one thousand dollars, shall pay a license tax of ten dollars per quarter.

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SEC. 13. Every keeper of a picture gallery, daguerreotypist, photographist, or other artist, shall pay a license of ten dollars per quarter.

SEC. 14. All incorporated roads, bridges, or ferries, or water companies, or any other incorporated company not specified in the provisions of this bill, or any other company or association, or persons taking or receiving toll, whose quarterly receipts reach the sum of five hundred dollars, shall pay a license tax of twenty dollars per quarter; those whose quarterly receipts shall not exceed five hundred dollars, shall pay a license tax of ten dollars per quarter; those whose quarterly receipts shall reach one thousand dollars, shall pay a license tax of forty dollars per quarter; those whose quarterly receipts shall reach two thousand dollars, shall pay a license tax of eighty dollars per quarter; those whose quarterly receipts shall reach five thousand dollars per quarter, shall pay a license tax of two hundred and fifty dollars per quarter; and those whose quarterly receipts reach ten thousand dollars, shall pay a license tax of five hundred dollars per quarter: *Provided*, That quartz mills and water ditches used for mining purposes be exempt from the provisions of this section.

SEC. 15. *Be it further enacted*, That it shall be the duty of any corporate or other company, receiving toll, to cause any president, secretary, chief officers, or directors of said company or companies, four times in each year, to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statement of all their receipts and expenditures. And it shall be the duty of said treasurer to examine said report, and he shall have power to hear testimony for and against the same, and if he approve of the same he shall proceed to collect the tax imposed by this act upon said company or corporation as provided by law in other cases. And if such owner, officer, or agent shall fail or refuse to make report as above required, it shall be the duty of said treasurer to estimate the receipts of such company, corporations, or person, according to his best knowledge and information, and proceed to collect license as provided in section fourteen of this act, and no abatement or diminution of said treasurer's estimate shall be made.

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SEC. 16. That all male persons in this territory who are now, or who may hereafter be, engaged in the laundry business shall pay a license of fifteen dollars per quarter.

SEC. 17. Every person who shall carry on the lottery, or gift, or prize distribution business within this territory, shall pay five per cent on the amount of property so disposed of.

SEC. 18. Every keeper of a bowling-alley shall procure a license, and shall pay therefor the sum of five dollars per quarter for each alley so used.

SEC. 19. That any company having a line or lines of telegraph in the territory shall pay a license as follows: On every business office kept in any city, town, or village containing a population of three hundred persons and over shall pay a license of ten dollars per month; all other telegraph offices kept on roads or stations, where general business is transacted, shall pay a license of five dollars per month; said license to be procured in the counties where the said offices are established.

SEC. 20. Licenses may be granted under the provisions of this act for one year or less, at the option of the applicant: *Provided*, No license shall be granted for a less time than that mentioned in the rates of assessments of licenses in this act.

SEC. 21. Each tax collector shall make diligent inquiry and examination as to all persons in his county liable to pay license required in this act, and it shall be his duty to require each person to state under oath or affirmation, the amount of business which he or the firm of which he is a member, or for which he is the agent or attorney, or the association or corporation of which he is the president or officer, have done in the last preceding month or quarter, and also to make a statement under oath, if required, in order to carry out the provisions of this act, and thereupon such agent or other person shall procure a license for such month or quarter for the class of which such party is liable to pay, and in all cases where an under estimate has been made the applicant shall be made to pay double license for the next month or quarter. Such license shall authorize the party obtaining the same in his county to transact business as provided in such license: *Provided*, However that nothing in this act nor in any license issued under it shall be so construed as to authorize

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any person to carry on any business without procuring such additional license as may be lawfully required by the laws of the United States, or of any incorporated city.

SEC. 22. For the purpose of enforcing the provisions of this act, and to prevent the evasion of the same, all property of every kind, held or used in any of the trades, occupations, or professions, for which a license is required by the provisions of this act, shall be liable for said license, and said license is hereby made a lien on all such property, which lien shall have precedence of any other lien, claim, or demand, and if any person or persons shall fail or refuse to procure the license required by this act, before the transaction of the business specified, it shall be the duty of the treasurer of the county to seize any of the property upon which a lien is hereby created, or any other property belonging to such person or persons, and sell the same in the manner provided for sheriffs on execution, to satisfy said license and costs; and for which said treasurer shall receive a like fee as sheriff for service of notice and sale on executions, or said treasurer may sue for and collect said license and cost by attachment, garnishment, or otherwise.

SEC. 23. If any treasurer shall fail or refuse to enforce the provisions of this act, as herein directed, he shall be liable, and shall pay double the amount of each and every license which he shall so fail to collect, together with all costs of suit, and it shall be the duty of the district attorney of the district in which such treasurer resides, upon complaint of any tax-payer in this territory, to prosecute such treasurer for the same.

SEC. 24. The act approved February the ninth, 1865, and the act approved December thirteenth (13th), 1867; and the act approved January fifteenth, 1869, and all acts and parts of acts conflicting with this act, be and the same are hereby repealed.

SEC. 25. This act to take effect and be in force from and after its passage.

Approved January 6th, 1870.

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AN ACT to repeal an act entitled "An Act to protect and regulate the irrigation of lands in Montana territory," approved January 12th, 1865, and to make provisions for the construction of ditches and the irrigation of agricultural lands.

SECTION 1. That an act entitled "An Act to protect and regulate the irrigation of lands in Montana territory," approved January 12th, 1865, be and the same is hereby repealed.

SEC. 2. That any person or persons, corporation or company, who may have or hold a title, or possessory right or title, to any agricultural lands within the limits of this territory, as defined by the Organic Act thereof, shall be entitled to the use and enjoyment of the waters of the streams or creeks in said territory, for the purposes of irrigation and making said land available for agricultural purposes, to the full extent of the soil thereof.

SEC. 3. That when any person or persons, corporation, or company, owning or holding land, as provided in section two of this act, shall have no available water facilities upon the same, or whenever it may be necessary to raise the waters of said stream or creek to a sufficient height to so irrigate said land, or whenever such lands are too far removed from said stream or creek to so use the waters thereof as aforesaid, such person or persons, corporation, or company shall have the right of way through and over any tract or piece of land for the purposes of conducting and conveying said water by means of ditches, dykes, flumes, or canals, for the purpose aforesaid.

SEC. 4. That such right to so dig and construct ditches, dykes, flumes, and canals over and across the lands of another, shall only extend to so much digging, cutting, or excavations, as may be necessary for the purposes required.

SEC. 5. That in all controversies respecting the rights to water, under the provisions of this act, the same shall be determined by the date of the appropriation, as respectfully made by the parties.

SEC. 6. That the waters of the streams or creeks of the territory may be made available to the full extent of the capacity thereof, for irrigating purposes, without regard to deterioration in quality or diminution in quantity, so that the same do not materially affect or impair the rights of the prior appropriator,

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but in no case shall the same be diverted or turned from the ditches or canals of such appropriator, so as to render the same unavailable.

SEC. 7. That any person or persons, corporation or company, damaging or injuring the lands or possessions of another, by reason of cutting or digging ditches or canals, or erecting flumes, as provided by section three of this act, the party so committing such injury or damage shall be liable to the party so injured therefor.

SEC. 8. That this act shall not be so construed as to impair or in any way or manner interfere with the rights of parties to the use of the water of such streams or creeks acquired before its passage.

SEC. 9. That this act shall not be so construed as to prevent or exclude the appropriators of the waters of the said streams or creeks for mining, manufacturing, or other beneficial purposes, and the right also to appropriate the same is hereby equally recognized and declared.

SEC. 10. That any person or persons, corporation, or company, who may dig and construct ditches, dykes, flumes, or canals, over or across any public roads or highways, or who use the waters of such ditches, dykes, flumes, or canals, shall be required to keep the same in good repair, at such crossings or other places where the water from any such ditches, dykes, flumes, or canals may flow over, or in any wise injure any roads or highways, either by bridging or otherwise.

SEC. 11. Any person or persons offending against section ten of this act, on conviction thereof, shall forfeit and pay for every such offence, a penalty of not less than twenty-five dollars nor more than one hundred dollars, to be recovered with costs of suit in civil action, in the name of the territory of Montana, before any court having jurisdiction; one half of the fine so collected shall be paid into the county treasury for the benefit of the common schools of the county in which the offence was committed; and the other half shall be paid to the person or persons informing the nearest magistrate that such offence has been committed. All such fines and costs shall be collected without stay of execution, and such defendant or defendants may, by order of the

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court, be confined in the county jail until such fine and costs shall have been paid.

SEC. 12. This act to be in force and take effect from and after its approval by the governor.

[NOTE FROM THE SECRETARY. — The foregoing having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT authorizing the Board of County Commissioners of the county of Madison to subscribe and take stock for said county in the Capital Ditch Company.

SECTION 1. That the board of county commissioners of the county of Madison, in the territory of Montana, at any time within one year from the passage of this act, be and the same are hereby authorized and fully empowered to subscribe and take capital stock for said county to the amount of fifteen thousand dollars, subject, however, to the provisions of section two of this act, in the Capital Ditch Company, a body corporate and politic, organized under the general incorporation act of the territory, entitled "An Act to provide for the formation of corporations for certain purposes," approved December 13th, 1867, and an act amendatory thereto, approved January 6th, 1869.

SEC. 2. That the board of county commissioners of the county of Madison are hereby authorized and empowered for said county to subscribe and take capital stock in the said Capital Ditch Company in said county, not exceeding the amount of fifteen thousand dollars, and subject to the express provisions of this section of the act; the sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to said Capital Ditch Company, and expended

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the said amount of money on said ditch, and completed the first fifteen miles of said ditch; and may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed other ten miles of said ditch; and, lastly, may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed an additional ten miles of said ditch, making altogether thirty-five miles of said ditch.

SEC. 3. That said board of county commissioners are hereby authorized and empowered to issue bonds, with coupons, to the said Capital Ditch Company for the amount of stock subscribed, not exceeding the sum of fifteen thousand dollars, redeemable at the pleasure of the county of Madison, after two years, and payable in eight years from date, bearing interest at the rate of twelve per cent per annum, payable annually; which said bonds and coupons shall be signed by the chairman of the board of county commissioners, and countersigned by the county clerk of said county of Madison; and the said bonds herein authorized shall be of any denomination not less than fifty dollars nor more than five hundred dollars each, at the discretion of the board of county commissioners.

SEC. 4. No bonds and coupons issued under authority of this act shall be issued by said board of county commissioners to said Capital Ditch Company for the amount of stock subscribed by the said county commissioners, for said county of Madison, for less than par value.

SEC. 5. The board of county commissioners of the county of Madison may appoint and empower an agent to represent the county, to subscribe or transfer its stock, give its vote, and receive its dividend (if any), and such agent to be changed at pleasure.

SEC. 6. That the board of county commissioners of said county of Madison shall set aside not more than two mills on the dollar on all the taxable property of said county for the payment of the bonds and coupons issued under the provisions of this act; and shall, out of said contingent fund, pay annually the

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coupons or interest due on said bonds, and the remainder of the money on hand shall be subject to the order, discretion, or control of said board of county commissioners, as they shall deem prudent and expedient: *Provided, however*, That no money collected under the provisions of this act shall be appropriated or applied by the said board of county commissioners to any other purpose than for the payment of the bonds and coupons issued under this act: *And provided further*, That the charges, costs, or expenses to accrue, if any, of carrying into effect any of the provisions of this act shall be paid by the board of county commissioners out of the contingent fund mentioned in this act.

SEC. 7. That the special election held in the several voting precincts in the county of Madison, on the 23d day of November, A. D. 1869, at which a majority of the legal votes cast at said election were in favor of the said county to subscribe and take capital stock in the Capital Ditch Company to the amount of fifteen thousand dollars; and the acts and proceedings of said board of county commissioners of said county, in submitting the question of said county to subscribe and take stock in said Capital Ditch Company to the amount of fifteen thousand dollars, to the ratification or rejection of the qualified voters of the said county, voting at said special election, and all acts and proceedings of said board of county commissioners in relation therewith, and the said election be, and the same are hereby legalized, to all intents and purposes, and shall have the same binding force in all courts and places whatsoever, as if the same had been done and submitted according to law.

SEC. 8. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend Section Eight (8) of an act entitled "An Act concerning limitations, approved February 9, 1865."

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That section eight of an act entitled "An Act concerning limitations," approved February 9, 1865, be and the same is hereby amended so as to read as follows: "SECTION 8. Actions, other than those for the recovery of real property, as follows: an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, when it shall appear from the record thereof that the defendant has been personally served with process, or has appeared to the action upon which such judgment or decree was rendered, shall be commenced within ten years, an action upon any contract, obligation, or liability, founded upon an instrument of writing (except those mentioned in the preceding section) shall be commenced within ten years; an action for waste or trespass upon real property; an action upon a liability created by a statute other than a penalty or forfeiture; an action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property; an action for relief, on the ground of fraud: *Provided*, That the cause of action in the last mentioned case shall not be deemed to have accrued until the discovery by the aggrieved party of the fact constituting the fraud, shall be commenced within three years. An action against a sheriff, coroner, or constable upon the liability incurred by the doing of any act in his official capacity, and in virtue of his office, or by the omission of an official duty, shall be commenced within two years. An action upon an account or other contract, obligation, or liability not grounded upon an instrument of writing, shall be commenced within five years. An action upon a statute for a penalty or forfeiture, when the action is given to an individual or to an individual and the territory, except where the statute imposing it prescribes a different limitation, shall be commenced within two years. An action for libel, slander, assault, battery or false imprisonment, shall be commenced within two years. An action against a sheriff or other officer,

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for the escape of a prisoner arrested or imprisoned in civil process, shall be commenced within three years. An action upon an account for goods, wares, or merchandise sold and delivered, and upon any express or implied promise, not above enumerated, shall be commenced within five years."

SEC. 2. That nothing in this act shall be so construed as to revive any demand of whatever nature or character created outside of this territory, the collection of or right of action upon which has been barred by the act of the legislative assembly, to which this is amendatory, and amendatory acts in relation thereto passed prior to this date.

SEC. 3. That all act and parts of act in conflict with this act be and the same is hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory has become a law without his approval.]

AN ACT to repeal an act providing for extra compensation to the Secretary of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That an act entitled "An Act to provide extra compensation to the secretary of Montana," approved December the 24th, 1867, is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

December 28th, returned by the governor with his objections. Objections spread on the journal immediately. The vote by which the bill was passed was reconsidered, and on the question,

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"Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-third vote of the house.

IN COUNCIL.— Vote by which the bill was passed by the council was reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a unanimous vote of the council.

AN ACT supplemental to an act entitled "An Act to provide for the funding of the debt of Montana Territory," approved Dec. 3, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. The territorial treasurer is hereby authorized and directed, immediately after the passage of this act, to apply such money or moneys as may be in the territorial treasury, belonging to the sinking fund, provided for by law and set apart and appropriated for the redemption of bonds and payment of coupons, to the payment according to law of such bonds as he may be able to liquidate before they fall due, observing strictly the provisions of section ten of the act to which this is supplemental, approved December 3, 1867: *Provided*, That no interest upon bonds so liquidated shall be paid beyond the date of their liquidation.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT relating to the Killing of Game.

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That any person or persons who shall willfully shoot or otherwise kill, or cause to be killed, any grouse, prairie chicken, pheasant, fool-hen, partridge, or quail between the first day of March and the fifteenth day of August of each year, shall be deemed guilty of a misdemeanor, and upon conviction before any justice of the peace having competent jurisdiction, be fined in a sum not less than five dollars, nor more than thirty dollars for each offence committed.

SEC. 2. For the next three years from the first of July, 1870, it shall be unlawful for any person willfully to kill or destroy, in any manner whatever, any partridge or quail within the territory, and upon conviction before any justice of the peace, shall be fined in any sum not less than thirty nor more than one hundred dollars for each offence committed.

SEC. 3. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal Sections Three and Ten of an act entitled "An Act relating to the Discovery and Possessory Right of all Placer Mines."

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That sections three and ten (10), one (1), two (2), four (4), five (5), six (6), seven (7), nine (9), and eleven (11) of an act entitled "An Act relating to the discovery and possessory

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right of all placer mines," approved December 11th, 1867, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal Section Four of an act entitled "An Act to promote the Agricultural, Mechanical, and Mineral Interest of Montana Territory," approved December 24th, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That so much of section four (4) of an act entitled "An Act to promote the agricultural, mechanical, and mineral interest of Montana territory," approved December 24th, 1867, as requires the association to pay annually into the treasury of the territory a license of one hundred dollars, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 23d, 1869.

AN ACT to amend an act entitled "An Act concerning Licenses," approved January 15th, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows :—

SECTION 1. That there shall be levied and collected by the tax collector a license tax as follows: For each and every in-

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surance company, the sum of one hundred dollars per annum, to be paid by the principal agent of the territory.

SEC. 2. That all act and parts of act in conflict with this act be and the same are hereby repealed.

SEC. 3. That this act take effect and be in force from and after its passage.

Approved January 7th, 1870.

AN ACT to repeal an act entitled "An Act to incorporate the Madison River Ditch Company."

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That an act entitled "An Act to incorporate the Madison River Ditch Company," approved January 24th, A. D. 1865, be and the same is hereby repealed.

SEC. 2. That this act take effect and be in force from and after its passage and approval.

Approved.

AN ACT to amend an act entitled "An Act to amend an act entitled 'An Act relative to the Pre-emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby,'" approved December 12th, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That section three (3) be amended so as to read as follows; to-wit: That the residue of lots in the possession of the corporate authorities, or probate judge, as the case may be, and unclaimed after the expiration of sixty (60) days, it shall be the duty of the probate judge, or corporate authorities, as the case may be, to post up notices, or cause the same to be done, in at least four public places in the county in which such town site is located, at least ten days before sale, that he will offer and

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sell at public sale all of, or so many as he may think proper, of the lots that may remain unclaimed at the time advertised; and that all lots, having been thus advertised and offered for sale, not bringing at least the minimum price as set forth in an act of which this is amendatory, shall be subject, at any time thereafter, to private entry at the minimum price.

SEC. 2. All act and parts of acts in conflict with this act be, and the same are hereby repealed.

SEC. 3. That this act take effect and be in force from and after its passage.

Approved January 6th, 1870.

AN ACT to amend an act entitled "An Act relating to Counties and County Officers," approved February 9th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:—

SECTION 1. That section one of article eight of "An Act relating to counties and county officers," approved February 9th, 1865, be amended so as to read as follows: "A county assessor shall be elected in each county at the general election, who shall give bond with two or more sufficient sureties in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties, according to law and to the satisfa tion of the board of county commissioners; and shall subscribe an oath for the faithful performance of his duties as such assessor, and shall be a qualified elector of said county; and shall hold his office for one year, and until his successor be elected and qualified."

SEC. 2. That it shall be the duty of the board of county commissioners of each county, as soon as practicable after the passage of this act, to require the county assessor to comply with the provisions of this act.

SEC. 3. That this act shall be in force from and after its passage.

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[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of this territory, has become a law without his approval.]

AN ACT to amend an act amendatory of an act entitled "An Act relating to Counties and County Officers," approved January 11th, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That section two of an act entitled "An Act amendatory to an act entitled 'An Act relating to counties and county officers,'" approved February 9th, 1865, be amended to read as follows: "If a surplus of the contingent fund set aside in section one of the act to which this is amendatory, remain, said surplus fund shall be paid out on registered warrants, as other county funds, at the expiration of each quarterly settlement."

SEC. 2. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT legalizing certain acts of the County Treasurer of Gallatin County, in the payment of certain moneys.

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That all moneys paid out of the county treasury of Gallatin county, by the treasurer of said county, on the order of the county commissioners of said county, during the year A. D. 1869, be and is hereby decared valid.

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SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory, for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act relating to the discovery of gold and silver quartz leads, lodes, or ledges, and the manner of their location," approved December 26th, 1864.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That section 8 of said act be so amended as to read as follows: "That the amount of ground which may hereafter be taken up, upon any lead, lode, or ledge in addition to the discovery claim, shall be limited to ten hundred feet along said lead, lode, or ledge, in each direction from the discovery claim thereon; and that all such lead, lode, or ledge shall be represented by at least *one day's* actual labor performed thereon, within *twelve months* from the passage of this act, and every six months thereafter.

SEC. 2. That all acts and parts of acts in conflict with this act, be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT amendatory of an act entitled "An Act relating to Counties and County Officers," approved February 9th, 1865, and an act approved January 11th, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. Add to section 3 of an act entitled "An Act amendatory of an act entitled 'An Act relating to counties and county officers,'" approved January 11th, 1869, and the said board may at any time, by giving at least five (5) days public notice, call an extra session of not over two days duration.

SEC. 2. This act to take effect and be in full force and effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal an act entitled "An Act to incorporate the Prickly Pear and Virginia City wagon road company," approved January 24, 1865; also, to repeal an act entitled "An Act to incorporate the Little Prickly Pear wagon road company," approved January 19th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That the Act to incorporate the Prickly Pear and Virginia City wagon road company, January 24th, 1865, be and the same is hereby repealed.

SEC. 2. That the Act to incorporate The Little Prickly Pear wagon road company, approved January 19th, 1865, be and the same is hereby repealed.

SEC. 3. That the following other acts, entitled as follows, be and the same are hereby repealed, and declared void and of no effect: An Act to incorporate the Missouri river and Rocky Mountain wagon road and telegraph company, approved Decem-

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ber 27th, 1864; An Act to authorize Zedekiah A. Stone, and his associates, to construct and keep a toll bridge across Beaver Head river, approved January 4th, 1865; An Act granting to C. R. Bissell and J. E. Bissell the right to build and construct a wagon road, by the most direct route, from Silver Bow to Jefferson river, being located in Deer Lodge and Jefferson counties, beginning at the Silver Bow mines, in Deer Lodge county, and running up the south fork of the Silver Bow or Deer Lodge creek to the summit of the Rocky Mountains; thence by the most direct route to the Jefferson river, approved January 9th, 1865; also, An An to incorporate the Hell Gage and Deer Lodge wagon road company, approved January 9th, 1865; also, An Act to incorporate the Bitter Root and Kootenay wagon road and ferry company, approved January 12th, 1865; also, An Act to incorporate the Bozeman City and Fort Laramie wagon road and telegraph company, approved January 20th, 1865; also, An Act to incorporate the Bozeman City and Milk river wagon road company, approved January 20th, 1865; also, An Act to incorporate the Madison river ditch company, approved January 24, 1865; also, An Act granting to Frank H. Woody, C. E. Irvine, their associates and successors, the right to establish and maintain a ferry or bridge across the Hell Gate river, approved January 24, 1865; also, An Act to incorporate the Virginia City and Summit City wagon road company, approved January 27, 1865; also, An Act to incorporate the Nevada City and Red Rock wagon road company, approved January 28, 1865; also, An Act to incorporate the Montana bridge and ferry company, approved, A. D. 1865; also, An Act to incorporate the Willow creek town company, approved January 28, 1865; also, An Act to incorporate the Rams Horn toll road company, approved February 1, 1865; also, An Act to incorporate the Prickley Pear, Deer Lodge, and Silver Bow wagon road company, approved February 2, 1865,; also, An Act to incorporate the Fort Benton and Kootenay wagon road company, approved February 2, 1865; also, An Act to incorporate the Bear's Tooth wagon road company, approved February 2, 1865; also, An Act to incorporate the Helena wagon road company, approved February 6, 1865; also, An Act to incorporate

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the Grasshopper Canon Road Company, approved February 7, 1865; also, An Act to incorporate the Ophir and Flat Head River Wagon Road Company, approved February 8, 1865; also, An Act to establish a wagon road from the waters of the Grasshopper creek to Hell Gate, approved February 8, 1865; also, An Act to incorporate and establish the Montana and Idaho Wagon Road Company, approved February 8, 1865; also, An Act to incorporate the Twin Bridge Company, approved February 8, 1865; also, an act entitled An Act to re-enact an act to authorize C. D. Lontsenheizer, A. J. Burr, and C. C. Stubbs, their heirs and assigns, to maintain and keep a ferry on the Missouri river at the mouth of Trout creek, in Meagher county, approved November 25, 1867; also, An Act to re-enact an act to authorize Thomas A. Holmes and Luther M. Brown, and their associates, heirs, and assigns, to establish a ferry across the Missouri river, between the counties of Edgerton and Meagher, approved December 6, 1867; also, An Act to re-enact an act to authorize Constant Guyot, his heirs and assigns, to construct and maintain a toll road from the Little Blackfoot river to the Ten Mile and Helena road, approved December 3, 1867; also, An Act to re-enact an act authorizing Henry Whaley, Joseph V. Stafford, and William E. Pinney, and their associates, to establish and maintain a toll road from Cave City, in Cave Gulch, to the mouth of said gulch, in Meagher county, Montana territory, approved December 12, 1867; also, An Act to re-enact an act entitled an act to incorporate the Black Tail Deer and Helena Wagon Road Company, passed and approved at the second session of the legislature of Montana, approved December 12, 1867; also, An Act to re-enact an act entitled an act to incorporate the El Dorado and Diamond City Wagon Road Company, passed April 12, 1866, approved December 20, 1867; also, An Act to incorporate the Great Beaver Head Wagon Road Company.

SEC. 4. That all acts and parts of acts conflicting with this act be, and the same are hereby, repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative

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assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, 1867.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That section one hundred and sixty-five, article two, of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, A. D. 1867, be and the same is hereby repealed, and the following substituted therefor: "SECTION 165. When in the trial of any cause, civil or criminal, the evidence is concluded, and before the case is argued or submitted to the jury, or to the court sitting as a jury, either party may move the court to give instructions on any point of law arising in the cause, which shall be in writing, and shall be given or refused, the court may of its own motion give like instructions."

SEC. 2. That nothing in section one hundred and twenty-five of chapter four, of the act to which this is amendatory, shall be so construed as to require any sheriff, or other person, or officer having in charge the execution of any order or writ of attachment, or execution, to post any notice of the levy of the same upon any quartz claim, lode, or ledge, levied on or attached in pursuance of the commands of any such writ.

SEC. 3. That in all cases where such officer or other person shall make a levy as aforesaid, upon any of the property specified in the foregoing section, it shall be his duty to make a complete list or inventory of all such property levied on by him, and file the same in the office of the county clerk of the county in which said property is located, and from and after the filing thereof the levy thereon shall be perfected, and from the time of filing the same shall impart notice of such levy, and shall remain a lien on the property so levied on.

SEC. 4. It shall be the duty of the county recorder to file and safely keep such list in his office, subject to the inspection of all

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persons, and such clerk shall receive a fee of twenty-five cents for such filing and safe keeping of said list, to be paid by the plaintiff in the action, and taxed and allowed to him as other costs and disbursements in the action.

SEC. 5. A summons shall be executed, except as otherwise provided by law, either: *first*, by reading the writ to the defendant and delivering to him a copy of the complaint; or, *second*, by delivering to him a copy of the complaint and writ; or, *third*, by leaving a copy of the complaint and writ at his usual place of abode, with some member of his family over the age of fifteen years; or, *fourth*, where there are several defendants, by delivering to the defendant who shall be first summoned a copy of the complaint and writ, and to such as shall be subsequently summoned, a copy of the writ; or, by leaving such copy at the usual place of abode of the defendant, with some member of his family over the age of fifteen years. If the suit be against a corporation, service shall be had by delivering a copy of the complaint and writ to the president, or other head of the corporation, secretary, cashier, or managing agent thereof. If the suit be against a foreign corporation, or a non-resident, joint stock company, or association doing business within this territory, by delivering a copy of the complaint and writ to an agent, cashier, or secretary thereof. If the writ be against a minor under the age of fourteen years, by delivering a copy of the complaint and writ to such minor personally, and also to his father, mother, or guardian, or if there be none in the territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. If the writ be against a person judicially declared to be of unsound mind or incapable of conducting his own affairs, and for whom a guardian has been appointed, by delivering copies of complaint and writ to such guardian.

SEC. 6. That so much of section twenty-nine of title three, of the act to which this is amendatory, as conflicts with this act, be and the same is hereby repealed.

SEC. 7. That section twelve of an act to amend an act entitled "An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, be so amended as to read as follows: "SECTION 12. That before issuing the writ of attachment, the clerk of the court shall

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require a written undertaking on the part of the plaintiff to be filed in a sum not less than double the amount claimed by the plaintiff, with sufficient sureties, to be approved by the clerk, to the effect that if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not to exceed the sum specified in the undertaking; said sureties may be required to justify before the clerk of the court, to the effect that each for himself is worth the amount specified in the undertaking, over and above his debts and liabilities, and property by law exempt from execution, in the territory of Montana."

SEC. 8. That sections four hundred and three, four hundred and four, four hundred and five, and four hundred and six, of chapter five; and sections four hundred and seven, four hundred and eight, four hundred and nine, four hundred and ten, and four hundred and eleven, of chapter six, of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, 1867, and that section seventeen of an act to amend an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved January 15, 1869, be and the same are hereby repealed.

SEC. 9. The testimony of a witness out of the territory may be taken by deposition, in an action, at any time after the service of the summons or the appearance of the defendant, and in special proceedings, at any time after a question of fact has arisen therein.

SEC. 10. When the witness resides out of this territory, the party desiring his testimony may sue out of the court in which the suit is pending, or out of the office of the clerk thereof, a commission to take the deposition of the witness, and when the witness resides out of the territory and the suit is pending before a justice of the peace, the party desiring his testimony may sue out of a court of record, of the county in which the suit is pending, or out of the office of the clerk thereof, a commission to take the deposition of a witness.

SEC. 11. Depositions may be taken by some one of the following officers: *First*, if taken within this territory, by some

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judge, justice of the peace, notary public, mayor, or chief officer of a city or town having a seal of office, or clerk of the district court; *second*, if taken without this territory, by some officer out of the territory, appointed by authority of the laws of this territory to take depositions, or by some consul, or commercial or diplomatic representative of the United States, having a seal, or mayor, or chief officer of any city, town, or borough, having a seal of office, or by some judge, justice of the peace, or other judicial officer, or by some notary public, within the government where the witness may be found.

SEC. 12. The commission shall be under the seal of the court, and shall be directed to any officer herein authorized to take depositions, within the government wherein the witness may be.

SEC. 13. The commission shall authorize such officer to cause to come before him such person or persons as shall be named to him by the party suing for the same, and shall command such officer to examine such person touching his knowledge of anything relating to the matter in controversy, and to reduce such examination to writing, and return the same, annexed to the commission, to the court wherein, or the justice before whom, the action is pending, with all convenient speed.

SEC. 14. When the witness may be found in this territory the deposition may be taken by the proper officer thereof, without any commission or order from any court or clerk.

SEC. 15. Depositions may be taken by any officer appointed out of this territory, by authority of the laws of this territory, to take depositions, without any commission or order from any court or clerk.

SEC. 16. In all cases where depositions shall be taken by virtue of any of the preceding sections of this law, the party at whose instance the same shall be taken shall cause notice in writing, of the time and place of taking such depositions, to be served on the adverse party or his attorney in the case.

SEC. 17. If neither the adverse party or his attorney in the cause reside in the territory, causing such notice to be put up in the office of the clerk of the court wherein such suit is pending shall be a sufficient notice.

SEC. 18. Such notice, when served on the adverse party, or his attorney, shall be, *first*, by delivering to him a copy thereof; *second*, by leaving a copy of such notice at his usual place of

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abode, with some member of his family above the age of fifteen years, or at his office, with some clerk above the age of fifteen years.

SEC. 19. The service of any notice required by this act may be by any sheriff, marshal, constable, or by any competent witness who shall make affidavit to such service.

SEC. 20. In all cases where notice is required by this law, the same shall be served at least three days before the day of taking of the depositions, and one day additional for every twenty-five miles, for the first three hundred miles; and beyond that, one additional day for each one hundred miles of distance from the place of serving or setting up such notice to the place of taking the depositions, except as otherwise provided in the next succeeding section.

SEC. 21. When it is desired to take depositions out of this territory, to be read in suits pending in any of the courts of this territory, the court in which any suit is pending, or the judge thereof, in vacation, may shorten the time for which notice is to be given, as now required, upon such application of the party desiring it, with due notice of such application to the opposite party, or his attorney; and notice of taking depositions, given for such time as shall be designated by the court or judge, shall, in all such cases, be sufficient.

SEC. 22. When a party to any suit pending in any court of record in this territory shall make application to such court in term time, or to the judge thereof, in vacation, for a commission to take the examination of witnesses, and shall support the application by affidavits, and shall have given to the adverse party reasonable notice of such application, the court or judge may, upon such terms as it may think proper, award such commission.

SEC. 23. The commission shall be to such person as the court or judge shall appoint, to be named in the commission, or to some proper officer of the government where the witnesses may be, commanding such person or officers to examine such witnesses (naming them) upon interrogatories.

SEC. 24. The interrogatories shall be annexed to the commission, and shall be drawn and signed by the parties or their counsel in the cause, under the sanction and direction of the court or judge thereof.

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SEC. 25. The commission shall further command the person or officer to whom the same is directed to reduce the examination of the witnesses and their answers to the interrogatories annexed to writing, and return the same with the commission into the court with all convenient speed.

SEC. 26. Such person or officer shall examine the witnesses named in the commission, touching the matters contained in the interrogatories annexed, and none others, at any time and place, when and where such witnesses may be found.

SEC. 27. Every witness examined in pursuance of this law shall be sworn or affirmed to testify the whole truth, and his examination shall be reduced to writing in the presence of the person or officer before whom the same shall be taken.

SEC. 28. Every person, judge, or other officer in this territory required to take the depositions or examination of witnesses in pursuance of this law, or by virtue of any commission issuing out of any court of record in this or any other government, shall have power to issue subpœnas for witnesses to appear and testify, and to compel their attendance in the same manner and under the like penalties as any court of record of this territory.

SEC 29. To every deposition or examination taken by virtue of this law shall be appended the certificate of the person or officer by or before whom the same shall be taken, showing that the deposition or examination was reduced to writing in his presence, and was subscribed and sworn to by the witnesses, and the place at which, and the day, and within the hours, when the same was taken.

SEC 30. Depositions or examinations taken by any person or officer in this territory authorized by this act, or by any person or officer out of this territory, appointed by authority of the laws of this territory to take depositions, or by any consul, commercial or diplomatic representative of the United States, or mayor, or chief officer of any city, town, or borough, having a seal of office; or by any notary public, and certified to by such person or officer, in his official character, and accompanied by his seal of office, if there be one, shall, to all intents and purposes, be sufficient evidence of the authentication of such depositions or examinations.

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SEC. 31. The official character of such officer taking depositions or examinations within any of the United States, or in the District of Columbia, authenticated and proved as aforesaid, or by the certificate and seal of the clerk of any court of record within any county of the state or territory, or within the district where such officer resides; and certifying, also, that such officer was an acting judge or justice of the peace, and duly commissioned as such at the time when the depositions were taken, shall be a sufficient authentication thereof. Depositions or examinations taken by any person or judicial officer without the United States by virtue of any commission issued in pursuance of this law, shall be, except as herein otherwise provided, accompanied by a certificate of the official character of said officer, attested by the seal of state, or seal of court, of the government in which the depositions or examinations were taken.

SEC. 32. When the party causing depositions to be taken under a notice shall have completed the taking thereof, the adverse party may, before the same officer, and at the same place, proceed immediately, or on the next day, to take any depositions he may desire to have read in the cause, at said place and between the hours specified in the notice, until he shall have taken all that he desires; but, in order thereto, he shall, before or during the time of the taking of the depositions, on behalf of the other party, or the attorney representing him, give notice of his intention to do so.

SEC. 33. Depositions or examinations taken by virtue of any of the provisions of this law, and all exhibits produced to the person or officer taking such examinations or depositions, and proved or referred to by any witness, together with the commissions and interrogatories (if any), shall be enclosed, sealed up, and directed to the clerk of the court in which, or the justice before whom, the action is pending.

SEC. 34. Examinations or depositions taken and returned in conformity to the provisions of this law, may be read and be used as evidence in the cause in which they shall have been taken, as if the witnesses were present and examined in open court on the trial thereof: *First*, if the witness reside or is gone out of this territory; *second*, if he be dead; *third*, if, by reason

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of age, sickness, or bodily infirmity, he be unable to, or cannot safely, attend the court; *fourth*, if he resides at a greater distance than forty miles from the place of trial; *fifth*, if he be gone to a greater distance than forty miles from the place of trial, without the consent or collusion of the party requiring his testimony; *sixth*, if he be a judge of a court of records, and engaged in the discharge of his official duties at the time.

SEC. 35. When the officer taking depositions in virtue of this law shall, in his certificate, state the place of residence of the witness, such statement shall be *prima facie* evidence of the facts.

SEC. 36. Every objection to the competency or credibility of a witness examined, or to the competency or relevancy of any question put to him, or of any answer given by him, may be made in the same manner and with the like effect as if such witness was personally present; and any failure to make such objections at the taking of the depositions, although the objecting party may be present, shall not prejudice his right to make such objections at the trial of the cause.

SEC. 37. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 38. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act to prevent officers from dealing in certain securities," approved February 2, A. D. 1865.

Be it enacted by the legislative assembly of the territory of Montana: —

SECTION 1. That section one of "An Act to prevent officers from dealing in certain securities," approved February 2, 1865

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be so amended as to read as follows: "SECTION 1. The territorial treasurer and auditor, and the several district, county, city, or town corporation officers in the territory, are hereby expressly prohibited from purchasing or selling, directly or indirectly, or in any manner receiving to their use and benefit, or to the use and benefit of any person or persons whatever, any territory, county, or town, or city warrants, scrip, orders, demands, claim or claims, or other evidence of indebtedness against the territory, or county, or any city or town thereof."

SEC. 2. That section four of said act be so amended as to read as follows: "SECTION 4. All public officers herein referred to shall have the right to sell or transfer any evidences of public indebtedness which may be issued according to law, and held by such officers for services rendered by them to the territory, county, or town corporation, legally and justly due, and that the remaining portion of said section four of said act, approved February 2, 1865, be and the same is hereby repealed."

SEC. 3. Any officer, or agent, or employe, of any officer who shall be guilty of any violation of any of the provisions of this act shall, on conviction, be punished by a fine of not less than five hundred dollars, and shall be imprisoned in the territorial prison not less than two months. Such conviction shall operate as a forfeiture of office, and it shall be, and is hereby made, the duty of all judges in this territory to give this act specially in charge to the grand jurors at each term of their respective courts, and, also to all trial juries impannelled for the trial of any of the officers hereinbefore mentioned in this act.

SEC. 4. That all fines collected under and required by the provisions of this act, to be paid into the county treasuries, shall be so paid in for the benefit of the common school fund.

SEC. 5. All acts and parts of acts conflicting with this act be and are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved December 22d, 1869.

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AN ACT to provide for the appointment of Notaries Public, and to prescribe their duties.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. The governor may appoint and commission one or more notaries public in each orginized county of the territory, who may respectively hold their offices three years, unless sooner removed by the governor.

SEC. 2. Each notary is invested with the power and shall perform the duties which pertain to that office, by the custom and law of merchants.

SEC. 3. Every notary public is required to keep a true record of all notices given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to whom the same were given or sent, with a copy of the instrument in relation to which the notice is served, and of the notice itself.

SEC. 4. Such records and copies of them, authenticated by the hand and seal of the notary, his protests, and all his official acts as notary, and his seal, shall reserve such credit and faith as they are entitled to by the law and custom of merchants.

SEC. 5. Each notary public is required to have a seal, on which are to be engraved the words, "Notarial Seal," and "Montana," with his surname at length, and at least the initials of his Christian name.

SEC. 6. Notaries public are empowered to administer oaths, and to take acknowledgments and proof of deeds required or permitted by the law of this territory to be recorded or acknowledged.

SEC. 7. On the death, resignation, or removal from office of any notary, his records, with all his official papers, shall, within three months therefrom, be deposited in the office of the clerk of the county court, in the county for which such notary shall have been appointed; and if a notary, on his resignation or removal, neglect for three months so to deposit them, he shall be held guilty of a misdemeanor, and be punished accordingly, and be liable in an action to any person injured by such neglect; and if

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an executor or administrator of a deceased notary willfully neglect, for three months after his acceptance of that appointment, to deposit the records and papers of the deceased notary which came into his hands in said clerks office, he shall be held guilty of a misdemeanor and punished accordingly.

SEC. 8. If a notary removes his residence from the county for which he was appointed, such removal shall be taken as a resignation.

SEC. 9. It is the duty of each clerk aforesaid to receive and safely keep all such records and papers of the notary in the case above named, and to give attested copies of them and the seal of his court; for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary.

SEC. 10. That on or before the first day of May next every notary public then in commission in the territory shall have his commission recorded in the office of the recorder of deeds in his county.

SEC. 11. Any notary public failing to comply with the provisions of the foregoing section, shall be deemed removed from office from and after the said first day of May, next.

SEC. 12. Every notary public whose commission bears date after the said first day of May, next, shall comply with the following conditions: *First.* Before entering upon the discharge of his official duties, he shall give bonds to the territory of Montana in the penal sum of one thousand dollars, conditioned for the true and faithful execution of the powers and duties of his office, with two or more sureties to be approved on said bond by the clerk of the county court of the proper county. *Second.* On the approval of said bond by said clerk, said notary shall have his commission recorded by the recorder of deeds of his county, and shall pay to the clerk of the county court the sum of three dollars.

SEC. 13. Said notary public shall then be deemed commissioned, and not before.

SEC. 14. The clerk of the county court shall thereupon transmit to the secretary of the territory a certificate that said notary public is duly qualified, and specifying the date of his qualifica-

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tion, which certificate shall bear the signature of said notary public, and said secretary is hereby required to file said certificate in his office, and to keep a book in which he shall enter the names of notaries hereafter qualified, in the order in which the same are transmitted to him, with the name of the county and the date of qualification of each.

SEC. 15. Any notary public exercising the duties of his office after the expiration of his commission, or when otherwise disqualified, or appending his official signature to documents when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of one hundred dollars for each offence, to be recovered before any court having competent jurisdiction in his county, and shall also be removed from office by the governor.

SEC. 16. The governor of the territory is hereby authorized to appoint one or more notaries public in any unorganized county, who shall qualify as hereinbefore provided, in the county to which said unorganized county is attached for judicial purposes.

SEC. 17. That in case of a demand of payment of any promissory note, bill of exchange, or other commercial paper, by a notary public, and a refusal by the maker, drawer, or acceptor, as the case may be, the notary making said demand may inform the indorser, or any party to be charged, if in the same town or township, by notice deposited in the nearest post office to the party to be charged, on the day of demand, and no other notice shall be necessary to charge said party.

SEC. 18. That an act in relation to notaries public, approved December 31st, A. D. 1864, and an act supplementary to an act in relation to notaries public, approved November 23d, A. D. 1867, be, and they are hereby, repealed.

SEC. 19. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT regulating the tenure of civil officers in Montana territory.

Be it enacted by the legislative assembly of the territory of Montana:—

SECTION 1. No person nominated or appointed by the governor of this territory to fill any territorial office therein created, under, or by any of the laws of this territory, shall hold, exercise, or perform any of the duties of, or pertaining to, such office, unless the nomination or appointment of such person or officer has first been made by and with the advice and consent of the legislative council.

SEC. 2. The acts of all persons or pretended officers, who shall pretend to hold or perform the duties of any such territorial office, having only the nomination or pretended appointment of the governor of the territory thereto, without having the said nomination or appointment made by and with the advice and consent of the legislative council of this territory, shall, to all intents and purposes, be null and void.

SEC. 3. No pretended appointment or nomination by said governor, prior to the same being made with the advice and consent of the legislative council of this territory, shall confer upon such appointee or person so nominated any power or authority to fill, exercise, or perform any of the duties of such office, nor shall it be lawful for any person acting, or pretending to act, under, or by virtue of, any such pretended nomination or appointment, to ask, demand, or receive any fee, commission, or reward whatever, for any such labor or services done or performed under, or by color of, any such nomination or pretended appointment.

SEC. 4. It shall not be lawful for the governor of this territory hereafter to remove any officer or person exercising or performing the duties of any territorial office under, or by virtue of, any law or authority of this territory, unless such removal shall be made by and with the advice and consent of the legislative council of this territory first had, nor shall any such officer be holden at the will of the governor or executive alone, nor shall any nomination or pretended appointment of any person by the governor to any such office operate as a removal of any incum-

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bent or officer *de facto* performing the duties thereof, until such nomination has been sanctioned by or made by the advice and consent of the legislative council of this territory.

SEC. 5. In all cases where a vacancy shall happen in any territorial office after the passage of this act and during the recess of the legislature, first, by the death of the incumbent; second, by his resignation; third, by his ceasing to be a citizen of the territory; fourth, by his conviction of any infamous crime; fifth, by his refusal to qualify, or to give or renew his official bond within the time prescribed by law; upon the governor being notified of such vacancy, it shall be his duty to issue his proclamation convening the legislative council of this territory at the seat of the government, at a time not exceeding twenty days from the date thereof, for the purpose of filling said vacancy, and in the meantime may appoint some suitable person to fill said office, who shall take the oath and give the bond required by law of such officers, and who shall perform all the duties of his said office until the convening of said legislative council.

SEC. 6. It shall be the duty of the said legislative council to assemble at the time and place designated by said governor, in his said proclamation, and when so assembled, or a majority thereof, they shall be deemed and taken to be in executive session, and shall have and possess all power and authority, and their acts shall be as valid as if the legislative assembly of the territory was in regular or lawful session at the time, and when so assembled, the said governor shall nominate, and by and with the advice and consent of the legislative council, first had and obtained, may appoint some suitable person to fill said vacancy.

SEC. 7. The person whose nomination shall be so ratified and confirmed by said legislative council shall, without unnecessary delay, qualify, by taking the oath and giving bond, required of such officer by the laws of this territory, and shall hold their office for the term of two years, from and after their appointment as aforesaid, and until their successor in office shall be duly appointed and confirmed.

SEC. 8. In all cases when any action, information *quo warranto*, or other proceedings shall have been, or shall hereafter be brought, in any court of competent jurisdiction, in this ter-

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ritory, to oust any officer *de facto*, or person holding or performing any of the duties of any territorial office in this territory, under color of right and law, even though in the opinion of said court said officer shall not be a legal or *de jure* officer, and that said officer has in his possession public property, and is performing a public duty that is or may be for the "good of the public," and that there is no other person lawfully authorized to succeed him in said office. It shall be lawful for said court or judge to make an order allowing such officer *de facto* to hold and perform the duties of the same until his successor is duly appointed and qualified under the provisions of this act, and the laws of this territory, to take charge of said office property and effects, and perform said public duties; and until said successor is so appointed and qualified all the official acts of said officer *de facto* shall be be as valid and binding as if he was legally appointed and qualified as such.

SEC. 9. That all territorial officers, either *de facto* or *de jure*, now, or who may hereafter be performing the duties of such offices, shall continue to perform all the duties of such offices until their successors are appointed and confirmed, as in this act provided, and such officers shall receive all the fees and emoluments of such offices, and it shall be the duty of the secretary of the territory to receive and safely keep all bonds of such officers.

SEC. 10. All acts and parts of acts conflicting herewith are hereby repealed.

SEC. 11. This act shall take effect from and after its passage.

IN COUNCIL.—Returned by the governor, with his objections thereto. Governor's objections spread on the journal immediately. Vote by which the bill was passed, was reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary, notwithstanding?" it was passed by a two-third vote of the Council, December 27th, 1869.

IN THE HOUSE.—December 27th, vote by which the bill was passed, reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary, notwithstanding?" was passed by a two-third vote of the House. Deposited with the territorial secretary, at half-past ten o'clock P. M. this 29th day of December, 1869.

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AN ACT legalizing certain acts of the county treasurer of Deer Lodge county, in the payment of certain moneys.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That all moneys derived from the sale of lots in the city of Deer Lodge, and which have been paid out of the county treasury by the treasurer of said county, on the order of the county commissioners of said county, be hereby declared valid.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act in relation to Public Highways," approved January 6th, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That so much of section two of this act, to which this is amendatory, shall not be so construed as to authorize the appointment of any member of the board of county commissioners as supervisors of roads.

SEC. 2. That supervisors of roads are hereby required to make out and return to the county clerks of their several counties, after the first Monday in February, in each year, additional lists of all persons who may have become residents of their districts, or that they may have neglected to list, prior to the first Monday of February, in each year, who are subject to payment

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of road tax. That the board of county commissioners may appoint supervisors at any regular term of their session.

SEC. 3. *Be it further enacted*, that the several county treasurers are hereby authorized and empowered to collect all road tax levied in each year, as now required by law for the collection of revenue: *Provided*, that any person producing the supervisors' certificate for labor done and performed, or for material furnished, on any road, or bridge, by order of said supervisor, with the amount due therefor, shall be allowed the same on their road tax, and the county treasurer shall pay all amounts exceeding said tax to the party holding said certificate, out of any road money in the treasury, and the said certificate shall be the treasurer's voucher for money so paid.

SEC. 4. That so much of section four of the act to which this is amendatory be so amended as to require all supervisors to make a report to the county commissioners on the first Monday in February and November in each year, of all labor done and performed, and material furnished on roads or bridges in their respective counties; and the said supervisors shall receive a reasonable compensation for their services, to be allowed by the county commisssioners out of the road fund of the county; and if a surplus of money shall remain after the payment of all road dues, the county commissioners shall place the same to the credit of the road fund.

SEC. 5. That all acts and parts of acts in conflict with this act, be and the same are hereby repealed.

SEC. 6. This act to take effect and be in full force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT "To authorize the Territorial Auditor to issue a triplicate Territorial Warrant in lieu of Duplicate Territorial Warrant number three, of Two Hundred and Forty-eight, for Three Hundred and Ninety Dollars, to E. W. Haskell."

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That the territorial auditor is hereby empowered and authorized to issue a territorial warrant for three hundred and ninety dollars, number three, of two hundred and forty-eight, to E. W. Haskell, in lieu of the duplicate warrant of that number and amount issued to E. W. Haskell, and now owned by said E. W. Haskell, and by him lost.

SEC. 2. That the territorial treasurer is hereby authorized to make on his books the duplicate as lost, and triplicate issued in lieu thereof.

SEC. 3. That said triplicate warrant, when issued, shall take the place of the duplicate warrant in order of registration and payment.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved December 29th, 1869.

AN ACT to amend an act entitled "An Act defining the Council and Representative Districts of the Territory of Montana, and appointing the members of the Legislative Assembly thereof," approved December 13th, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SEC. 1. That section one of an act entitled "An Act defining the council and representative districts of the territory of Montana, and apportioning the members of the legislative assemby thereof," approved December 13th, 1867, be and the same is

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hereby amended so as to read as follows: "That the next session of the legislative assembly of the territory of Montana shall convene at the seat of government of said territory on the first Monday of December, one thousand eight hundred and seventy-one, at 12 o'clock M. on that day, and biennially thereafter."

SEC. 2. That at the next general election, A. D. 1870, and biennially thereafter, there shall be elected members of the house of representatives who shall hold their offices for the term of two years; that members of the council shall be chosen as already provided by law, and shall hold their offices for the term of two years.

SEC. 3. That an act to amend an act entitled "An Act defining the council and representative districts of the territory of Montana, and apportioning the members of the legislative assembly thereof," approved January 15th, 1869, be and the same is hereby repealed.

SEC. 4. That all act and parts of acts in anywise conflicting with this act be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its approval.

COUNCIL. — Returned to council with objections of governor to the same. Objections immediately spread at large upon the journal of the council, and the vote by which it had passed the council reconsidered. Passed the council, notwithstanding the objections of the governor, Dec. 22, 1869, by a *two-third* vote of the council.

HOUSE. — December 22. Returned to the house with the objections of the governor to the same; vote by which the same passed the house reconsidered. Passed the house, notwithstanding the objections of the governor, by a *two-third* vote of the house. Deposited with territorial secretary December 24th, 1869, at 2¼ o'clock.

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AN ACT defining the duties of the Auditor of Montana Territory, in relation to Public Printing.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That hereafter, when it shall be necessary for the territorial auditor and the territorial treasurer, in the lawful discharge of their duties, to have or use any private blanks, or to have any printing done authorized by law for use in their respective offices, the same shall be procured as hereinafter provided.

SEC. 2. That it shall be the duty of the auditor of this territory immediately after the passage of this act, and thereafter at the beginning of each fiscal year, to invite sealed proposals from all publishers in this territory for doing all public printing for the use of the aforesaid officers; that he shall invite said proposals by notice thereof, to be printed for four weeks in three several newspapers in this territory. Said notice shall contain a specification of the character, quality, and quantity of printing to be done.

SEC. 3. That the sealed proposals received by the auditor from all sources for public printing shall be opened and compared by the said auditor and the district attorney of the said district where the auditor may reside; and it shall be the duty of the said auditor and district attorney to award the contract for the public printing to the person or persons who propose to do the same for the entire fiscal year at the lowest rates.

SEC. 4. That it shall be the duty of the auditor to furnish the person or persons to whom has been awarded the contract for public printing, with samples of the printing required of him, and that such contractor shall be required to comply with his contract in that respect before he shall be entitled to receive his pay therefor.

SEC. 5. That the territorial auditor is authorized to draw his warrant or warrants upon the territorial treasurer for the payment of any contract made under the provisions of this act, when the same shall be fully complied with on the part of the contractor, and not before.

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SEC. 6. That the auditor and district attorney aforesaid, together shall have the power to reject any unreasonable or excessive proposals for such public printing, and in all cases where there has been but one proposal made for such printing said auditor shall immediately re-advertise for proposals, as required by this act.

SEC. 7. That any auditor or district attorney required to perform any duty under the provisions of this act, who shall directly or indirectly become interested in any bid, proposal, or contract made under the provisions of this act, shall be fined in a sum not less than one thousand dollars, nor more than five thousand dollars, to be recovered in any court of competent jurisdiction, and the same shall work a forfeiture of office.

SEC. 8. That all act and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal part of an act to amend an act entitled "An Act to regulate proceedings in civil cases in the Courts of Justice of Montana territory," approved January 15, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That section fourteen of an act to amend an act entitled " An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, be and the same is hereby repealed, and that section one hundred and seventy-three of an act to regulate proceedings in civil cases in the

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courts of justice of Montana territory, approved December 23, 1867, be, and the same is hereby revised and declared to be in full force and effect.

SEC. 2. That so much of section fifteen of an act to amend an act entitled "An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, as authorizes a verdict or finding of three-fourths of a jury to be received as the finding or verdict of the whole jury, be and the same is hereby approved.

SEC. 3. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT amendatory of an act entitled "An Act to regulate proceedings and define the jurisdiction of the Probate Courts of the territory of Montana," approved December 23 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:—

SECTION 1. That in addition to the jurisdiction conferred upon the probate courts of this territory, by the act to which this is amendatory, it is hereby expressly declared, that said courts shall have jurisdiction in all civil actions wherein the amount in controversy shall be not less than one cent, nor more than five hundred dollars, and said courts shall have power to tax and enter judgment for costs in all cases of a civil nature without regard to the amount recovered, such judgment for costs in all cases to follow the judgment of the action.

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SEC. 2. That such probate court in all criminal actions wherein the fine does not exceed the sum of five hundred dollars, or imprisonment not exceeding one year, or both, such fine and imprisonment, on the intervention of a grand jury, shall, in its discretion, have the right to tax the costs and enter judgment therefor when such prosecution shall appear frivolous or vexatious against the prosecuting witness, or the instigator of such prosecution.

SEC. 3. That section (39) thirty-nine of chapter one of an act of the legislative assembly of Montana territory, entitled "An Act to regulate proceedings in criminal cases in the courts of justice in the territory of Montana," be and the same is duly repealed.

SEC. 4. That in all cases of the arrest and examination of offenders, as provided in said act, and in lieu of the section above repealed, it shall be the duty of the justice of the peace, or other judicial officer before whom such an examination is had, to examine all witnesses so produced before him, to reduce such examination to writing, and cause the same to be signed by the witness so testifying.

SEC. 5. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 6, 1870.

AN ACT to amend an act entitled "An Act defining the duties of county treasurers and the payment of county warrants," approved November the 9th, A. D. 1867.

Be it enacted by the legislative assembly of the territory of Montana: —

SECTION 1. That section six of an act entitled "An Act defining the duties of county treasurers and the payment of county warrants," approved November the 9th, A. D. 1867, be so amended as to read: "The county treasurer shall receive the fol-

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lowing fees, beginning with every fiscal year: Twelve and one-half per cent on the first five thousand dollars of revenue, from all sources, by him collected; for all sums between five and ten thousand, eight per cent; for all sums over ten thousand, four per cent; for every license issued, one dollar, to be paid by the party applying for the same; for every mile traveled in going and returning, on the most direct route, making settlement with the territorial auditor and treasurer, twenty-five cents; for levying on and selling property for taxes, the same fees as allowed to sheriffs, to be paid by delinquents; but in no case shall any county treasurer be allowed a fee for disbursing."

SEC. 2. That so much of an act entitled "An Act regulating the fees of officers, jurors, and witnesses," as relates to the fees of treasurers, approved February the 9th, A. D. 1865, and all acts and parts of acts conflicting with this act, are hereby repealed.

SEC. 3. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act providing for the collection of revenue," approved January 15th, 1869."

Be it enacted by the legislative assembly of the territory of Montana:—

SECTION 1. The following sections of said act shall be and are hereby amended, as follows: Strike out section seven of said act, and insert the following in lieu thereof: "All personal property shall be listed, assessed, and taxed in the county where the same may be found, unless the owner or agent produces a receipt or certificate from the collector or assessor, showing that he has

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paid tax or been assessed for taxation on said property in some other county for the same year: *Provided*, that goods, wares, and merchanise in transit to, or belonging, or consigned to, a resident of this territory, shall not be assessed or taxed until such goods or merchandise shall reach its destination or place of consignment."

SEC. 2. Repeal section twenty-eight of said act, and enact the following in lieu thereof: "The treasurer shall, within twenty days from the time he shall receive the assessment roll from the clerk, direct to each tax-payer in his county a written or printed notice, containing the amount of tax due from such tax-payer, and the time the same becomes due. Such notice shall be directed to the nearest post office to which said tax-payer resides. Printed blanks for said notices and postage stamps for the same shall be furnished said treasurer by the board of county commissioners."

SEC. 3. That is hereby made the duty of the county commissioners, when they find, from the return of the assessor's roll, that the property within the county has not been fully and lawfully assessed, as to amount and value of such property, the county commissioners are hereby authorized and empowered to appoint a reliable person as deputy assessor, to assess or re-assess all such property immediately, and make return to the county clerk of his assessment roll within twenty days from the date of his appointment; and if, from said deputy's returns, the county commissioners find that the assessor's return of property has not been made correctly as to amount and value of property, the commissioners shall allow the deputy such compensation as they deem sufficient for such services, and deduct said amount from the per centage now allowed by law to the assessor.

SEC. 4. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to repeal an act entitled "An Act providing for the collection of the revenue," approved December 23d, A. D. 1867."

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That the act entitled "An Act providing for the collection of revenue," approved December 23d, 1867, be and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved December 22d, 1869.

AN ACT to authorize the citizens of Jefferson county to change the county seat of said county.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That the legal voters of Jefferson county, at the next general election, in the year one thousand eight hundred and seventy-one, shall have the right to change their county seat; and the place receiving the highest number of legal votes shall thereafter be the county seat of said county.

SEC. 2. That it shall be the duty of all county officers of Jefferson county to remove to and hold their offices at such place as may be chosen as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 7. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT authorizing the county commissioners of the several counties within the territory of Montana to regulate and establish the tolls on bridges and ferries.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That the county commissioners of the several counties be and they are hereby authorized and empowered to regulate and establish the rates of toll on bridges and ferries, within the limits of their respective counties, wherever the tolls are not now established by law; and said toll rates so fixed shall be understood to be in United States currency.

SEC. 2. Whenever any bridge or ferry is located on any stream dividing any of the counties, the commissioners of either of said counties may perform the duties required in this act.

SEC. 3. That every person, or company of persons, keeping any bridge or ferry, shall set up and keep in a conspicuous place on said bridge or ferry a board on which shall be written, painted, or printed in a plain, legible manner, the rates of toll prescribed by the county commissioners, as provided for in this act.

SEC. 4. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal an act giving extra or increased compensation to the Governor of Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That an act entitled "An Act to amend section one of an act entitled 'An Act to amend an act to provide increased compensation to the officers of this territory,'" approved Janu-

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ary 15, 1869, and all other acts, and parts of acts, whereby extra or increased compensation is given to the governor of Montana territory, be and the same are hereby repealed.

SEC. 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT authorizing the citizens of Meagher county to change the county seat of said county.

Be it enacted by the Legislative Assembly of the Territory of Montana:—

SECTION 1. That the legal voters of Meagher county shall, at the next general election, in the year one thousand eight hundred and seventy-one, have the power to change their county seat by voting for as many places as the voters may choose, and the place having or receiving the highest number of legal voters shall be declared the county seat.

SEC. 2. That it shall be the duty of all officers of Meagher county to remove to and hold their offices at such place as may be chosen as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 3. That this act take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the Territory, has become a law without his approval.]

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AN ACT authorizing officers to prosecute suits, without giving bond.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION 1. That hereafter, whenever it shall be necessary for any territorial, district, or county officer to commence, prosecute, or defend any suit by attachment, or otherwise, on behalf and in the name of the territory of Montana, under the provisions of any statute of this territory, such officer shall so commence, prosecute, or defend any such suit, without giving bond, nor shall any such officer be required, when prosecuting any suit on behalf of the territory, or any county thereof, be required to pay or deposit any fee or amount before or during the prosecution of any such suit, nor shall any such officer so prosecuting or defending be taxed with costs or damage, but such cost or damage, when such officer shall fail to sustain his suit, shall be taxed to the said county or territory, as the case may be.

SEC. 2. That all acts or parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT regulating the fees of County Clerks and Recorders.

Be it enacted by the Legislative Assembly of the Territory of Montana :—

SECTION. 1. The several county clerks and recorders of this territory shall be and are hereby authorized to receive the same fees as the clerks of the district court, for like services, except as herein otherwise provided:—

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For entering each order of court	$ 50
Administering each oath	25
Each certificate and seal	1 00
For each bond and license	1 50
For taking proof in case of estrays and granting certificate of the same	1 00
For advertisement, including copy for newspaper publication	1 50
For every certificate of magistracy under seal	1 00
Per diem attending meeting of board of commissioners	10 00

Provided, no clerk shall receive said per diem compensation who shall demand and receive compensation on items for each order of court.

COUNTY RECORDER'S FEES.

For every instrument authorized to be recorded: —

First one hundred words	$1 00
For each additional folio	50
Each entry in index	25
Certificate of record	1 00
Recording marriage certificate	1 00
Taking acknowledgments	1 00
Copies of record, for one hundred words	30
For making any search when no certificate is given	50
Recording town plats, for first one hundred lots or less	5 00
For each additional lot	05
For making abstract of title, first conveyance	1 00
For each subsequent conveyance	50
Abstracts for original entries each	1 25
For recording quartz claims each, including certificate	1 00

SEC. 2. That so much of an act entitled "An Act regulating the fees of officers, jurors, and witnesses," approved February 9th, 1865, regulating county clerks' and recorders' fees, and section two of an act amendatory of the above, approved December 23d, 1867, and all other acts and parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

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[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT "To amend an act in relation to the appointment of Deputy District Attorneys," approved December 23d, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That so much of section one of said act as relates to, and prohibits, the district attorneys of the several judicial districts of this territory from appointing deputy prosecuting attorneys in the counties of Meagher, Deer Lodge, and Missoula, be and the same is hereby repealed.

SEC. 2. That all laws or parts of laws conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7th, 1870.

AN ACT declaring Sarah Francis Gorham of lawful age.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows : —

SECTION 1. That Sarah Francis Gorham, an infant of the age of sixteen, a citizen of Montana, be and she is hereby declared of lawful age, and to have and possess full power and lawful right to grant, bargain, sell, and convey all real estate of

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which she is now or may at any time hereafter become the owner, either in law or equity, situated in Randolph county, in the state of Missouri.

SEC. 2. All contracts, bargains, sales, or conveyances of said real estate made by her shall be as lawful and binding upon said Sarah Francis Gorham, her heirs, assigns, and legal representatives, as the same would or could have been by the laws of said state of Missouri, had she have been of lawful age at the time of the making of said sale or conveyance; and that all such transfers and conveyances of said real estate, or any part thereof, shall, to all intents and purposes, pass from her, her heirs and legal representatives, all right, title, claim, and interest in and to said real estate of the said Sarah Francis Gorham, and shall vest the same in the purchaser or purchasers thereof to the same extent, and with like legal effect and validity as such sale or conveyance would or could have done had such sale or conveyance been made by the said Sarah Francis Gorham after arrival at full age.

SEC. 3. This act shall take effect and be in full force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT amendatory to an act entitled "An Act authorizing the repeal of an act to incorporate the City of Virginia."

Be it enacted by the Legislative Assembly of the Territory of Montana: —

SECTION 1. That section one of an act entitled "An Act authorizing the repeal of an act incorporating the City of Virginia," approved February 12th, 1869, be so amended as to read as follows: "SECTION 1. That on the first Monday of September,

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A. D. 1870, the question of repealing the act incoporating the City of Virginia, approved December 30th, 1864, shall be submitted to the qualified voters of said city; and, if a majority of the qualified voters be in favor of the repeal of said act, the same shall be from thenceforward null and void, and of no effect; but if a majority of the votes cast at said election be against the repeal of said act, the same shall remain in full force and effect."

SEC. 2. That section three of said act, authorizing the repeal of an act incorporating the City of Virginia, be so amended as to read as follows: "SECTION 3. That until said question of repeal is determined as aforesaid, there shall be no further election for mayor or aldermen under and by virtue of the charter and ordinances of said city, and that the present mayor and aldermen shall hold their offices under said charter until the question of repeal be determined as aforesaid, unless vacancies occur by reason of death or otherwise. In case a vacancy shall occur in the office of alderman, the same shall be filled by the mayor; and all vacancies occurring in the other offices provided for under and by virtue of the charter and ordinances of said city, shall be filled in the same manner provided by the said charter and act amendatory thereof; and the common council of said city shall have the exclusive power and authority to appoint the police justice, one city treasurer, one city marshal, and one city attorney, and to remove at will any of said officers."

SEC. 3. That all acts and parts of act in anywise conflicting with the provisions of this act be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to provide for the custody, maintenance, and treatment of the Insane in the territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana : —

SECTION 1. That there shall be elected during the present session of the legislative assembly of the territory of Montana, and bienially at each regular session thereafter, by the legislative assembly in joint convention assembled, one commissioner from each of the judicial districts, as the same are or may be established by law in this territory, who shall constitute the board of commissioners for the insane of Montana territory, and who shall exercise the powers and perform the duties hereinafter mentioned.

SEC. 2. Said commissioners shall hold their offices respectively for the term of two years, and until their successors shall be elected and qualified.

SEC. 3. It shall be the duty of the secretary of the legislative council immediately to notify the persons who may be elected under the provisions of this act, of their election, by transmitting to each of them, by the most speedy and reliable means, a copy of the proceedings of such joint convention relating to said election ; and the person so elected shall, within ten days after such election, take and subscribe to the following oath : I, A B, do solemnly swear that I will truly and faithfully discharge the duties of a member of the board of commissioners for the insane of Montana territory ; that I will carefully guard against any and all improper expenditures of money in all transactions connected with said board ; and that I am not now and will not be during the continuance of my official term, directly or indirectly interested in any bid or contract made by said board. Who shall give a joint bond in good and sufficient security for the faithful performance of their duty, in the sum of twenty thousand dollars, which oath and bond shall be filed with the secretary of the territory.

SEC. 4. It shall be the duty of the board of commissioners aforesaid, as soon as practicable after taking the oath aforesaid, and within forty days after their election, to meet at any place within the judicial districts they may agree upon, and shall or-

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ganize by electing one of their number as president, and one of them as secretary of said board.

SEC. 5. The secretary shall keep and preserve written minutes of all proceedings of said board, and shall deliver the same to his successor, and each one of said commissioners shall have one vote in determining any question or transacting any business by said board, and all contracts of said board shall be executed in the name of the territory of Montana, by the president and secretary of such board.

SEC. 6. The said commissioners shall have the power to prescribe all necessary rules for the proper custody, maintenance, and treatment of all persons adjudged insane as hereinafter provided within this territory; and it shall be their duty to publish the same, inviting sealed proposals, within a period of thirty days thereafter, for the custody, maintenance, and treatment of such insane persons in accordance with such rules; which publication shall be made in some newspaper published in each one of said districts in which a newspaper shall be published, and the first number of which newspaper containing such publication shall be published at least thirty days before any contract shall be made by said commissioners by virtue of this act. All proposals tendered in pursuance of said publication shall be accompanied by a bond in the sum of twenty-five thousand dollars, with sufficient sureties, to be approved by the president of said board, conditioned for the faithful performance of the terms of the contract in case such proposal shall be accepted.

SEC. 7. Said commissioners shall canvass all proposals received in accordance with said publication, and they are hereby authorized and empowered to contract on behalf and in the name of the territory of Montana, with the lowest and best bidder, for the care, custody, and maintenance of such insane persons, in accordance with the requirements published as aforesaid; but said commissioners shall have and reserve the power to reject any and all of such proposals; and such contracts shall require the person or persons entering into the same to receive all persons adjudged insane and delivered to him or them, as hereinafter provided; and to keep, maintain, and treat them in accordance with the requirements of said commissioners; and shall specify the compensation agreed upon for each of such insane persons.

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SEC. 8. Said commissioners shall, at all times, have free access to said insane persons, and it is hereby made their duty to elect one of their board, whose duty it shall be visit and inspect the condition of all insane persons provided for by this act, at least once in three months.

SEC. 9. The said commissioners shall, upon the application of the person or persons having the custody of said insane persons, under such contract, at the end of each quarter, certify to the territorial auditor the amount due to such person therefor; and it shall be the duty of such auditor to draw his warrant upon the territorial treasurer for such amount, payable out of the moneys hereinafter appropriated.

SEC. 10. The said contract shall require the person or persons entering into the same to provide and keep a secure and suitable building for the safe and proper keeping of such insane persons in the manner prescribed by said commissioners; and such person shall immediately transmit and cause to be filed in the office of the probate judge in each county in the territory a notification of the place at which insane persons from such county shall be delivered for safe keeping and treatment under the provisions hereof.

SEC. 11. From and after the passage of this act, it shall be the duty of the probate judge, or, in his absence or inability to act, the chairman of the boards of the county commissioners of the several counties of this territory, upon the application of any person under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, to cause the said person to be brought before him at such time and place as he may direct, and the said judge or commissioner shall also cause to appear, at the same time and place, a jury of three citizens of his county, one of whom shall be a licensed practicing physician, who shall proceed to examine the person alleged to be insane, and if such jury, after careful examination, shall certify upon oath that the charge is correct, and the said probate judge or commissioner is satisfied that such person, by reason of insanity, is unsafe to be at large, or is incompetent to provide for his or her own proper care and support, and has no property applicable to such purpose, and has no kindred in the

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degree of husband or wife, father or mother, children, or brother or sister, living within this territory, of sufficient means and ability to provide for such care and maintenance, or if he or she have such kindred within the territory, and such kindred fail or refuse to properly care for and maintain such insane person, such judge or county commissioner shall make out duplicate warrants, reciting such facts, and place them in the hands of the sheriff of said county, who shall immediately, in compliance therewith, convey the person or persons therein named, and deliver him, her, or them, to the contractor aforesaid, at the place designated in the notification herein required, and such contractor shall acknowledge, by endorsement in writing upon the back of each of said warrants, the delivery of such persons described therein to him, and the date thereof; and such sheriff shall return one of said warrants to the officer issuing the same, and forward the other to the secretary of the board of commissioners aforesaid, who shall file and preserve the same.

SEC. 12. In case such contractor shall fail to perform his agreement, said commissioners may declare said contract annulled, and may proceed to re-advertise and re-let the same, in the meantime provide for the custody and care of such insane persons as may be under the care of such contractor, and such contractor and his sureties shall be liable for all damages sustained by reason of such failure.

SEC. 13. The district attorneys of the several districts of this territory shall, at the request of the said board of commissioners, sue for, recover, and collect from the property of any insane person maintained under the provisions hereof, sent from any county in such district, or from any person or persons legally bound to support such insane person or persons, the amount expended in the arrest, examination, and transportation of such insane person, and in his or her custody, maintenance, and treatment.

SEC. 14. Said commissioners shall each be allowed the sum of six dollars for each day they may be actually and necessarily engaged in the discharge of their duties as herein prescribed, and twenty cents for each mile actually and necessarily traveled by them in the performance of such duties.

SEC. 15. Said commissioners shall certify to the territorial

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auditor such amounts as may be payable for expenses incurred by virtue hereof, and the auditor shall draw his warrant upon the territorial treasurer therefor.

SEC. 16. There shall be allowed to the probate judge or commissioner the following fees: For the examination, to include all necessary entries, three dollars; for each warrant issued, one dollar.

SEC. 17. And there shall be allowed to the sheriff the following fees: For arresting and bringing the person charged with insanity before the probate judge, or, in the absence of the judge, the chairman of the county commissioners, and subpœnaing witnesses, the same fees as are allowed by law in other cases; for taking an insane person to the place designated by the probate judge or chairman aforesaid, five dollars per day for the time necessarily employed, and twenty cents for each mile necessarily traveled, and all necessary disbursements for the support of the insane person, to be audited by the county commissioners and paid out of the county treasury of the county in which said person shall be adjudged insane.

SEC. 18. It shall be the duty of said board of commissioners to make full report of all their proceedings under this act to the legislative assembly at such regular session thereafter; and in case a vacancy occuring in said board during a recess of the assembly, the governor shall designate some suitable person to fill such vacancy until the next meeting of the legislative assembly.

SEC. 19. The sum of fifteen thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act during the years commencing January 1st, 1870, and January 1st, 1871.

SEC. 20. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act to regulate the fees of officers, jurors, and witnesses," approved February 9th, 1865.

Be it enacted by the legislative assembly of the territory of Montana:—

SECTION 1. That so much of an act regulating the fees of officers, jurors, and witnesses, approved February 9th, 1865, as relates to the fees of justices of the peace in the territory of Montana, be and the same is hereby repealed.

SEC. 2. Justices of the peace shall be allowed fees for their services, as follows:—

For	docketing each case	$ 50
"	issuing summons for one person	1 00
"	each additional person named therein	75
"	order of arrest	1 00
"	attachment against the person for contempt	1 00
"	attachment against property for one person	1 00
"	each additional person named therein	50
"	mittimus	1 00
"	writ of replevin and bond for same	2 00
"	subpœna for one person	1 00
"	each additional person named therein	25
"	venire for jury	1 00
"	execution	1 00
"	writ of restitution or re-restitution	1 00
"	warrant for one person in criminal cases	1 00
"	each additional person therein named	50
"	order on jailor for person or persons	50
"	writs of forcible entry and detainer, or forcible detainer only	1 00
"	every other writ required by law	1 00
"	entries on docket each adjournment	25
"	entry of judgments	25
"	entry of dismissions or discontinuances	25
"	entry of satisfaction of judgment	25
"	entry of transfer of judgment on docket	25
"	appointing guardian *ad litem* for a minor	50
"	taking verdict	25

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For each motion decided by justice	25
" making up docket, drawing certificates and affidavits, each one hundred words	25
For certifying despositions, transcripts of dockets, entries, and every other record, or copies of any pleadings, papers, or writings on file, not otherwise specified	50
For transcript of docket, copies of any record, pleading, writing, or other paper on file, each one hundred words	20
For swearing each jury	25
" swearing each witness, arbitrator, referee, appraiser, or other person	25
For filing each paper required to be preserved by a justice	25
For taking and approving each bond or undertaking	75
" taking and approving each recognizance	50
" appointing special constable	25
" appointing appraisers of an estray, or of money or goods found	25
For certified copies of appraisement	50
" issuing warrants as provided by the act entitled "An Act concerning estrays," approved January 11th, 1865	75
For taking the acknowledgment of deeds or other instruments of writing of one person	75
For each additional person named therein	50
" trying cause of forcible entry and detainer, or detainer only	3 00
For criminal cases	3 00
" civil cases	2 00
" taking depositions, for the first one hundred words	50
" each additional one hundred words	25
" entering an appeal	25
" transmitting papers, when required by law or any appellate court	25
For performing duties as coroner, the same fees as coroner.	
" marrying and making returns as required by law	10 00

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For writing affidavit, or other writing not hereinbefore provided, for each one hundred words..... 25
For issuing a commission or dedimus to take testimony in any civil cause pending in a justice court..... 1 00

SEC. 3. All acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act in relation to cost," approved January 15th, 1869.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That each party to a civil action in any court of record in this territory, shall be and is hereby required to advance and pay the fees fixed by law for the performance of any service or duty by any officer of such court, at the instance of such party, at the time such service is rendered; and no such officer shall be legally required to perform such service or duty unless the fees fixed therefor by law shall be first paid or tendered to him by such party, or unless in case such service be in behalf or at the instance of the plaintiff; in such action such plaintiff shall have complied with the requirements of the act of which this act is amendatory; or unless in case such service be in behalf of, or at the instance of, the defendant in such action, such defendant in such action shall make affidavit that he is unable to pay such fees.

SEC. 2. That all acts and parts of acts in conflict with this act be, and they are hereby, repealed.

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SEC. 3. That this act take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act establishing a common school system for the territory of Montana," approved February 7th, 1865.

Be it enacted by the legislative assembly of the territory of Montana:—

SECTION 1. That chapter 3d, section 11th, of said act be, and the same is hereby, amended so as to read as follows:—

SEC. 2. It shall be the duty of the clerk to furnish the county superintendent, within ten days after the first Friday in November in each year, a report, verified by affidavit, containing the number and names of scholars in his district over four and under twenty-one years of age, how long a school has been kept in his district the past year, what proportion of scholars in the district have attended school, what school books are principally used, the amount of money paid to teachers or otherwise expended.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act defining the duties of territorial auditor and territorial treasurer of the territory of Montana," approved December 3d, 1867.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. The salary of the territorial auditor shall hereafter, commencing on the first day of January, A. D. 1870, be three thousand dollars per annum, payable quarterly at the end of each quarter, by warrants drawn by the territorial auditor upon the territorial treasurer.

SEC. 2. That sections twelve and thirteen of an act entitled "An Act defining the duties of territorial auditor and territorial treasurer of the territory of Montana," approved December 3d, 1867, and all other acts giving salary, fees, or compensation to the territorial auditor, be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved.

AN ACT to authorize the auditor of Montana territory to perform certain duties.

Be it enacted by the legislative assembly of Montana territory : —

SECTION 1. The auditor of the territory of Montana is hereby authorized and empowered to procure, for the use of the treasurer of said territory, a suitable fire-proof safe, to purchase an official seal and a letter press for the use of the auditor's office.

SEC. 2. The sum of six hundred and fifty dollars, or so much thereof as is necessary, is hereby appropriated to carry out the provisions of this act.

SEC. 2. This act shall take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to provide for the contingent expenses of Meagher and Gallatin counties.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That the commissioners of Meagher and Gallatin counties are hereby authorized and empowered to set apart a sum not exceeding thirty-five per cent, arising from the revenue of said counties, for the contingent expenses of said counties.

SEC. 2. All acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7th, 1870.

AN ACT to authorize the territorial treasurer to issue bonds for balance of funded indebtedness of the territory of Montana.

Be it enacted by the legislative assembly of the territory of Montana : —

SECTION 1. That the treasurer of the territory of Montana is authorized to issue the bonds of the territory for the balance of old warrants, as provided for in section one (1) of an act supplemental of an act to provide for the funding of the debt of Montana territory, approved December 3d, 1867 ; and that the bonds shall date, as provided in said act, on the 1st day of June, 1869 ; said bonds not to exceed in amount the sum of two thousand dollars.

SEC. 2. This act shall be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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HOUSE JOINT RESOLUTION NO. 3.

Resolved by the House, the Council concurring, That there be, and there is hereby, appropriated out of the territorial treasury, from any moneys not otherwise appropriated, the following sums or amounts to the following named persons, for services as officers *pro tem.* in the temporary organization of the House and Council for the sixth legislative assembly of the territory of Montana: To George W. Rockfellow, as chief clerk of the House, the sum of fifty-five dollars; to A. M. S. Carpenter, as assistant clerk of the Council, the sum of twenty-two dollars; to Wm. Deascey, the sum of forty-five dollars; to O. P. Thomas, thirty-five dollars; to W. Reddick, sixty dollars; to R. S. Leveridge, chief clerk of the Council, twenty-two dollars; John Thompson, eighteen dollars; and that the auditor be instructed to draw his warrant on the treasurer for the sums above specified.

Approved.

HOUSE JOINT RESOLUTION NO. 4.

Introduced by A. H. Barrett.

Resolved by the House of Representatives, the Council concurring, That the auditor of Montana territory be and is hereby authorized and required to audit a sum not to exceed four hundred and thirty-seven dollars and sixty-seven cents ($437.67), with interest at ten (10) per cent per annum, from the eighth day of April, A. D. 1867, until the same shall be so audited and allowed, out of any funds in the territorial treasury not otherwise appropriated, to Geo. W. Rockfellow, administrator of the estate of John S. Rockfellow, deceased, in payment of freight and express charges for the statutes of the first legislative assembly of the territory of Montana, so advanced by the said John S. Rockfollow, in his life-time, for said territory.

Approved.

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HOUSE JOINT RESOLUTION NO. 9.

Resolved by the House of Representatives of Montana territory, the Council concurring, That the territorial auditor is hereby authorized to draw his several warrants on the territorial treasurer in favor of the following named persons, and for the amounts named to each person or persons: —

In favor of D. W. Tilton & Co. for the sum of three hundred and twenty dollars and twenty-five cents, in payment for stationery furnished the sixth legislative assembly of the territory of Montana.

In favor of F. E. W. Patton, for furnishing sundries to the sixth legislative assembly, ten dollars and twenty-two cents.

In favor of R. S. Hamilton, for putting up and repairing stoves for sixth legislature, the sum of thirty dollars and twenty-five cents.

In favor of B. D. Maxham, the sum of forty-four dollars and fifty-six cents, for candles and matches furnished sixth legislature.

In favor of W. F. Reddick, for eighty-one dollars and twenty-five cents, in payment of six and one-half cords of wood and cutting the same for sixth legislative assembly.

In favor of W. W. Morris, for stationery furnished sixth legislative assembly, the sum of thirteen dollars and twenty cents.

In favor of H. A. Pease, the sum of six dollars and twenty-five cents, for cleaning and setting up clock for sixth legislative assembly.

In favor of John Monheim, for wood furnished sixth legislative assembly, the sum of twenty-seven dollars.

In favor of Samuel Russell & Co. the sum of three dollars and fifty cents, for candles furnished the sixth legislative assembly.

In favor of G. P. Bassett & Co. for printing for both houses of the sixth legislative assembly, for fourteen hundred and fifty dollars.

Approved January 6th, 1870.

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HOUSE JOINT RESOLUTION.

Be it resolved by the House, the Council concurring, That the sum of forty-five dollars ($45.00) be, and the same is hereby, appropriated to Bartlett & Weimmer, for fitting up council hall.

And be it further resolved, That the auditor is hereby required to audit the same, and draw a warrant upon the treasurer in favor of Bartlett & Weimmer for the above sum.

Approved January 7th, 1870.

HOUSE JOINT RESOLUTION NO. 8.

Resolved by the House, the Council concurring, That the secretary be requested and instructed to furnish to the members of both houses of the assembly two copies, and to each of the clerks and sergeant-at-arms one copy, of the laws and journals passed at this session, as soon as convenient, after printed; and, further, the secretary is hereby directed and instructed to direct such laws and journals to the post offices of such members, clerks, and sergeant-at-arms, and the territorial auditor is hereby directed to draw his warrant on the territorial treasurer in payment for the required amount of the postage, on the certificate of the secretary.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

CONCURRENT RESOLUTION.

Resolved by this House, the Council concurring, That there be, and there is hereby, appropriated out of the territorial treasury, from any moneys not otherwise appropriated, the following amounts to the following named persons, and for the amounts named to each person or persons:—

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In favor of John Monheim, for one and one-half cords of wood, and cutting the same, for the sixth legislature, twenty dollars; in favor of Bassett & Co. for printing the report of the joint committee on ways and means, and papers furnished the sixth legislature, one hundred and ninety-two dollars and eighty-five cents.

Approved January 7th, 1870.

Resolved by the House, the Council concurring, That the territorial auditor is hereby authorized to draw his warrant upon the territorial treasurer in favor of Lichel & Mahan for the sum of forty-seven dollars and fifty cents, for money paid fitting up the hall of the house of representatives for the sixth session of the legislative assembly.

Approved December 30, 1869.

Resolved by the House, the Council concurring, That there be and is hereby appropriated out of the territorial treasury, from any money not otherwise appropriated, the following amount: To S. D. Johns, for services as clerk of the committee on ways and means of the house and council, $240; and the territorial auditor is hereby directed to draw his warrant on the treasurer for said amount.

Approved January 5th, 1870.

COUNCIL JOINT RESOLUTION NO. 1.

Resolved by the Council of the legislative assembly of the territory of Montana, the House concurring, That the auditor be, and he is hereby, authorized to draw his warrant upon the territorial treasurer in favor of the following persons; to-wit: Eighty-four dollars to James Wood and Charles Reynolds, for storage on eight (8) tons of government arms, from January 4th, 1869, to April 4th, 1869, three months, at three dollars and fifty

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cents per ton per month. Said amount is hereby appropriated out of any money in the treasury not otherwise appropriated.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

CONCURRENT RESOLUTION NO. 1.

WHEREAS, The national government has taxed the people of Montana since its organization as a territory, and failed to secure its citizens that protection to life and property to which they are justly entitled; and, whereas, during the continuance of a territorial government, the people may fairly anticipate a continuance of such taxation, without protection commensurate thereto; and whereas, the appointment and removal of our governors, judges, and territorial officers, without consulting the wishes and wants of the people of the territory, at the caprice of executive power, has imposed, and will continue to impose, upon the people a system of vassalage which is both offensive and burdensome; and whereas, the permanent population of the territory is increasing so rapidly that before the time fixed by law for the next meeting of the legislative assembly, in the winter of 1871–72, the people of the territory may desire to organize a state government, and apply for and obtain admission into the Union as a State; therefore,

Be it resolved by the Council, the House of Representatives concurring therein:—

1st. That there shall be elected by the legislative assembly, in joint convention, during the present session thereof, a committee consisting of six citizens of this territory, who shall constitute a "State Convention Committee," with power and authority to act as hereinafter prescribed.

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Provided, That neither said committee, nor any convention which may assemble in pursuance of their authority, shall have power to contract any indebtedness for which the territory of Montana shall be in any way responsible.

2d. *Resolved*, That the persons elected as hereinbefore provided, or any four of them, shall, as soon as practicable after the passage of this resolution, assemble and elect one of their number president, and also a secretary and treasurer, who shall hold their positions during the pleasure of the committee.

3d. *Resolved*, That all official acts of that committee shall be recorded in a book to be provided for that purpose, and every official act, to be valid, shall require an affirmative vote of two-thirds of said committee. In case of the death, removal from the territory, refusal or failure to act, or resignation of any member of said committee, the remaining members are authorized to fill such vacancy.

4th. *Resolved*, That said committee are hereby authorized to call on the qualified electors of the territory to elect delegates to a constitutional convention, at such time and in such manner as they may prescribe: *Provided*, That the number of delegates shall be the same as the number of members in both branches of the legislative assembly; and, *Provided further*, That no such election shall be held until after the completion of the federal census in 1870.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

WHEREAS, The laws of Montana territory passed at the different sessions of the legislature thereof, in their present conditions, are much in need of revision, classification, and codification.

Wherefore, be it resolved by the council, the house concurring, That the present judges of the supreme court of this territory, to-

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wit: H. L. Warren, Hiram Knowles, and G. G. Symes be and they are hereby constituted a commission, invested with full power and authority, to revise, classify, and codify all the general laws of this territory, omitting from their consideration all special laws, and they shall have authority to sectionize, index, and arrange the same in one volume, as in their judgment may seem best; and shall have power in such revision and codification to omit all surplus matter, such as titles of acts, enacting clauses, approvals, &c., if in their judgment they may deem it best; and such commission are required to report such amendments, alterations, and modifications to the civil and criminal practice acts as they may deem important, which alterations can be made to appear as a part of the code they may prepare. And they are required to report the result of their labors to the legislature at its next regular session for its adoption and ratification.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

Resolved by the Council, the House concurring, That the secretary of the territory of Montana, when he has the laws of the sixth legislative assembly published, be and he is hereby authorized to cause the printed copies thereof to be published free from all errors in punctuation, orthography, and grammatical construction: *Provided* that the corrections made do not interfere with the legal effect of said laws.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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COUNCIL JOINT RESOLUTION NO. 5.

Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House concurring, That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of the following persons; to-wit: To D. W. Tilton & Co., two dollars and eighty-three cents for ink; to B. D. Maxham, eight dollars and fifty cents for candles furnished the sixth legislative assembly; to John Monheim, seven dollars and fifty cents for one-half cord of wood, and sawing the same. Said amounts are hereby appropriated out of any money in the treasury not otherwise appropriated.

Approved January 6, 1870.

SUBSTITUTE FOR COUNCIL JOINT RESOLUTION NO. 2.

Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House of Representatives concurring, That the territorial auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of W. W. Morris, for the sum of thirteen dollars and twenty-five cents for articles furnished for use of arsenal.

Approved January 6, 1870.

COUNCIL JOINT RESOLUTION.

Resolved by the Council of the Legislative assembly of the Territory of Montana, the House concurring, That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer for the sum of fifty dollars, in favor of the masonic fraternity of Virginia City, for rent of council hall during the present session.

Approved January 5, 1870.

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To the honorable the Senate and House of Representatives of the United States, in Congress assembled : —

Your memorialists, the Legislative Council and House of Representatives composing the Legislative Assembly of the territory of Montana, would respectfully represent that the present approach to the territory from the Union Pacific railroad, some four hundred (400) miles in distance, is by a road which, for a portion of the distance, passes through a mountainous country, and another portion through vast, sandy, alkali plains; that it is at all times both difficult and dangerous, and of much greater length than necessary; that various special franchises have been granted by the neighboring territories, rendering the tolls upon it oppressive, and greatly increasing in amount the price of provisions brought over it into this territory; that as a military road, it is vastly expensive to the government, and has ever been one of the chief impediments to the growth and prosperity of the territory. They would further represent, that during the past year, in the effort to explore another route, it has been discovered that a road commencing, one branch at Fort Ellis, and the other at the city of Helena, and uniting in the valley of the Madison river, and traveling Henry's Pass of the Rocky Mountains to Henry's lake; thence down the east side of Henry's lake and Henry's fork of the Snake river to that stream, in all, a distance of one hundred and thirty-five miles, would overcome the worst obstacles of the present route, reduce the distance some seventy miles, and afford a solid and level roadway, instead of the sandy plains and high mountains which now impede the passage to the railroad. This new route, if improved, would greatly facilitate the means of travel into the territory, afford a fine road for government and military purposes, and, being free from tolls, would greatly reduce the price of groceries and provisions brought into the territory for home consumption.

It would, moreover, be in direct line with the military posts in the territory, and at all seasons of the year escape the obstructions of mud, sand, and mountains, so frequently encountered on the main route now traveled, and the one heretofore employed by the government, by way of Carter and Soda Springs.

The character of the route, the probable expense of improving

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it, distance, &c., are fully set forth in a preliminary survey made during the past season, which is hereto attached and made a part of this memorial.

Your memorialists would further represent that the present population of Montana, by reason of the various reverses in business during the past two years, and the character of the population being mostly young men without means, and who have just engaged in business, unable to bear the expense of constructing a free road over this route. There are several streams, including the Snake river, to be crossed by bridges, which constitutes the chief cost of construction. It would require an outlay not to exceed forty thousand dollars, but this would be more than repaid to the government by the superior facilities afforded by the road in the transportation of government stores to the various military posts, and in the advantages which would be secured to the territory by an early construction of the road.

Your memorialists would, therefore, pray that an appropriation of forty thousand ($40,000), to be expended under the direction of competent engineers, be appropriated for the early commencement and completion of this much needed improvement.

Approved.

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